

# **EXHIBIT 76**

Laura M. Plunkett, Ph.D, D.A.B.T.

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UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

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IN RE: JOHNSON & JOHNSON MDL NO.:  
TALCUM POWDER PRODUCTS 16-2738 (FLW)(LGH)  
MARKETING, SALES PRACTICES,  
AND PRODUCTS LIABILITY  
LITIGATION  
-----

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS  
STATE OF MISSOURI  
-----

VALERIE SWANN, et al.,  
Plaintiffs,

V. Cause No.  
JOHNSON & JOHNSON, et al., 1422-CC09326-03  
Defendants. Division 10  
-----

EXPERT DEPOSITION OF  
LAURA M. PLUNKETT, PHD, DABT  
Tuesday, August 10, 2021, 9:07 a.m.  
Washington, DC 20006

Reported by:

Denise Dobner Vickery, Registered Merit Reporter,  
Certified Realtime Reporter, Notary Public

Laura M. Plunkett, Ph.D, D.A.B.T.

<p style="text-align: right;">Page 2</p> <p>1 2 3 4 5 6 7 Tuesday, August 10, 2021 8 9:07 a.m. 9 10 Expert Deposition of LAURA M. PLUNKETT, 11 PHD, DABT, held at the offices of: 12 13 ASHCRAFT &amp; GEREL LLP 14 1825 K Street NW 15 Suite 700 16 Washington, DC 20006 17 18 19 20 Pursuant to notice, before Denise Dobner 21 Vickery, Certified Realtime Reporter, Registered 22 Merit Reporter, and Notary Public in and for the 23 District of Columbia. 24</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES: (Continued) 2 3 For Defendants Johnson &amp; Johnson and Johnson &amp; 4 Johnson Consumer Inc.: 5 SHOOK HARDY &amp; BACON LLP 6 BY: MARK C. HEGARTY, ESQ. 7 2555 Grand Blvd. 8 Kansas City, MO 64108 9 816.474.6550 10 mhegarty@shb.com 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES: 2 3 For MDL Plaintiffs and Plaintiff Valerie Swann: 4 ASHCRAFT &amp; GEREL LLP 5 BY: MICHELLE A. PARFITT, ESQ. 6 JAMES F. GREEN, ESQ. 7 1825 K Street NW, Suite 700 8 Washington, DC 20006 9 202.759.7648 10 mparfitt@ashcraftlaw.com 11 jgreen@ashcraftlaw.com 12 13 14 For MDL Plaintiffs and Plaintiff Valerie Swann: 15 BEASLEY ALLEN LAW FIRM 16 BY: RYAN BEATTIE, ESQ. 17 218 Commerce Street 18 PO Box 4160 19 Montgomery, AL 36104 20 308.874.3186 21 ryan.beattie@beasleyallen.com 22 23 24</p>	<p style="text-align: right;">Page 5</p> <p>1 INDEX 2 EXAMINATION OF 3 LAURA M. PLUNKETT, PHD, DABT PAGE 4 BY MR. HEGARTY 10 5 6 7 8 PLUNKETT DEPOSITION EXHIBITS 9 NUMBER DESCRIPTION PAGE 10 Exhibit 1 Integrative Biostrategies, LLC 25 11 Talc MDL Invoices period ending 12 30 November 2018 Invoice Number 1519 13 Exhibit 2 Integrative Biostrategies, LLC 27 14 Talc MDL Invoices period ending 30 15 September 2019 Invoice Number 1606 16 Exhibit 3 List of Testimony for 45 17 Dr. Laura M. Plunkett, PHD, DABT 18 Last Updated August 2, 2021 19 Exhibit 4 Curriculum Vitae 49 20 Exhibit 5 PowerPoint. Laura M. Plunkett, 67 21 PHD, DABT 22 Exhibit 6 Amended Expert Report of 84 23 Laura M. Plunkett, PHD, DABT 24 Dated June 30, 2021</p>

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<p>1 PROCEEDINGS</p> <p>2 ---</p> <p>3 LAURA M. PLUNKETT, PHD, DABT</p> <p>4 called for examination, and, after having been</p> <p>5 duly sworn, was examined and testified as</p> <p>6 follows:</p> <p>7 ---</p> <p>8 EXAMINATION</p> <p>9 ---</p> <p>10 BY MR. HEGARTY:</p> <p>11 Q. Good morning, Dr. Plunkett.</p> <p>12 A. Good morning.</p> <p>13 Q. Would you please state your full</p> <p>14 name for the record?</p> <p>15 A. Laura Massey Plunkett.</p> <p>16 Q. Dr. Plunkett, we're here today to</p> <p>17 take your deposition in the MDL litigation.</p> <p>18 Do you understand that?</p> <p>19 A. Yes.</p> <p>20 Q. Do you also understand we're here</p> <p>21 today to take your deposition in the case of Swann</p> <p>22 versus Johnson &amp; Johnson, et al.?</p> <p>23 A. I understand that, yes.</p> <p>24 Q. Did you bring any materials with you</p>	<p>1 Q. Thank you.</p> <p>2 What is the current name of your</p> <p>3 consulting business?</p> <p>4 A. BioPolicy Solutions, Inc. I'm</p> <p>5 sorry. LLC.</p> <p>6 Q. Your consulting business was</p> <p>7 formerly known as Integrated Biostrategies; is</p> <p>8 that correct?</p> <p>9 A. Integrative Biostrategies, yes.</p> <p>10 Q. Why the name change?</p> <p>11 A. That business is closed because I</p> <p>12 took on a full-time business partner. So we now</p> <p>13 have a different structure to the company. It's a</p> <p>14 partnership versus before I was the sole owner of</p> <p>15 the company.</p> <p>16 Q. The person that you have now entered</p> <p>17 into business with is Larisa Rudenko?</p> <p>18 A. Larisa Rudenko, yes.</p> <p>19 Q. How did you come to start working</p> <p>20 with her?</p> <p>21 A. So this time or how far back in</p> <p>22 time?</p> <p>23 Q. Well, with regard to your new</p> <p>24 company, BioPolicy Solutions.</p>
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<p>1 to the deposition?</p> <p>2 A. The only thing I brought was this</p> <p>3 notebook which has my report. Do you -- I brought</p> <p>4 this notebook, to answer your question. I'm</p> <p>5 sorry. (Laugh).</p> <p>6 Q. There are some materials to your</p> <p>7 right.</p> <p>8 Are those counsel's materials?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. What is your business</p> <p>11 address?</p> <p>12 A. 1127 Eldridge, E-l-d-r-i-d-g-e,</p> <p>13 Parkway, Suite 300-335, Houston, Texas 77077.</p> <p>14 Q. You testified in the past that your</p> <p>15 office was in your home, but this sounds like it's</p> <p>16 an address that's actually in an office building.</p> <p>17 Is that correct?</p> <p>18 A. No. I have a home-based office</p> <p>19 that's my mailing address.</p> <p>20 Q. Okay.</p> <p>21 A. So all materials -- so if you ask</p> <p>22 me -- if you ask me where to send something to me</p> <p>23 in my -- in my office, you would send it to that</p> <p>24 mailing address.</p>	<p>1 A. Okay. So in December of 2019,</p> <p>2 January of 2020, she contacted me and she had just</p> <p>3 finished -- she had finished a sabbatical at MIT</p> <p>4 and had recently retired from FDA two years prior,</p> <p>5 and she had reached the time period where she</p> <p>6 could now -- based on her tenure at FDA having</p> <p>7 ended more than two years, she could now start to</p> <p>8 consult back with the industry that she regulated</p> <p>9 when she was at FDA.</p> <p>10 So she wanted to -- she wanted to</p> <p>11 know if I was interested in working again. We had</p> <p>12 been partners on Integrative Biostrategies</p> <p>13 initially. She's the one who actually started</p> <p>14 Integrative Biostrategies back in 2001.</p> <p>15 Q. What is her area of expertise?</p> <p>16 A. Similar to mine. She's a</p> <p>17 board-certified toxicologist. She has a PhD in --</p> <p>18 whereas mine is in pharmacology, hers is in</p> <p>19 molecular biochemistry. And the difference in</p> <p>20 what we do is not that great, other than her</p> <p>21 contacts and her -- her clients that she has</p> <p>22 brought to the company are companies that</p> <p>23 specialize in making products through different</p> <p>24 processes of biotechnology.</p>

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<p style="text-align: right;">Page 14</p> <p>1 At FDA, she was a policy person</p> <p>2 working on the issues of new policy and new</p> <p>3 initiatives under products of biotechnology, and</p> <p>4 she was based jointly out of the Center for</p> <p>5 Veterinary Medicine and she also had a position</p> <p>6 that was through the commissioner's office as</p> <p>7 well.</p> <p>8 Q. You anticipated. One of my</p> <p>9 questions was with regard to what your consulting</p> <p>10 company does.</p> <p>11 Your report called what you did</p> <p>12 before as product development stewardship, that</p> <p>13 is, you one of your prior reports, and now you</p> <p>14 describe it as development and marketing of</p> <p>15 existing products as well as new technologies.</p> <p>16 So is there a difference in what</p> <p>17 your company is doing now, what you're doing now</p> <p>18 than what you did at the time you did your initial</p> <p>19 MDL report back in 2018?</p> <p>20 A. Not -- not really, other than the</p> <p>21 majority of the new clients are what I call new</p> <p>22 technologies, whereas before the majority of my</p> <p>23 clients were in the areas that were not this area</p> <p>24 of new technologies.</p>	<p style="text-align: right;">Page 16</p> <p>1 work for Johnson &amp; Johnson?</p> <p>2 A. At ENVIRON, she very likely worked,</p> <p>3 like I did, on a project for Johnson &amp; Johnson</p> <p>4 because I believe we were working together</p> <p>5 generally in that area, but I don't know since</p> <p>6 then. I can't answer that. So, no.</p> <p>7 Q. Has she ever been involved in</p> <p>8 litigation work, to your knowledge?</p> <p>9 A. In the past, yes.</p> <p>10 Q. What type of work do you know of</p> <p>11 that she's been involved in the past in a general</p> <p>12 sense?</p> <p>13 A. Just in general sense? I know she</p> <p>14 worked on some issues -- has worked on some issues</p> <p>15 related to safety of biotechnology.</p> <p>16 Q. Has she helped you with any of your</p> <p>17 litigation work?</p> <p>18 A. To date, no, not in the talc</p> <p>19 litigation at all.</p> <p>20 Q. Your report at paragraph 1 refers to</p> <p>21 a location in Ventura, California.</p> <p>22 Is that where she's located?</p> <p>23 A. That's correct.</p> <p>24 Q. Has there been any other -- has</p>
<p style="text-align: right;">Page 15</p> <p>1 Do you want me to give you an</p> <p>2 example to understand or --</p> <p>3 Q. Well, when you say "the majority,"</p> <p>4 what percentage of your clients are now this --</p> <p>5 these new technology clients?</p> <p>6 A. I'd say right now 90 to 98 percent</p> <p>7 of our clients. We have one client that is not in</p> <p>8 this area of new technologies, but most of the</p> <p>9 clients we're working with are in a space of</p> <p>10 emerging technologies in ways to make ingredients</p> <p>11 for food or make foods in bioreactors. So</p> <p>12 cell-based meat. I don't know if you've seen the</p> <p>13 press on that. That's an area we're working in.</p> <p>14 We're also working on novel food</p> <p>15 ingredients produced by methods of biotechnology.</p> <p>16 Q. You said you were going to give me</p> <p>17 some examples.</p> <p>18 Are those examples?</p> <p>19 A. Those are examples. Exactly, yes.</p> <p>20 Q. Has Ms. Rudenko worked in the past</p> <p>21 on any talc product, if you know?</p> <p>22 A. I don't know whether she did or not.</p> <p>23 I can't answer that.</p> <p>24 Q. Do you know whether she has done any</p>	<p style="text-align: right;">Page 17</p> <p>1 there been any other change in the employees of</p> <p>2 your consulting business since your MDL deposition</p> <p>3 in December of 2018?</p> <p>4 A. So we're partners. My husband is</p> <p>5 still -- is a contractor to the new company. He's</p> <p>6 not a salaried employee. And we have -- we have a</p> <p>7 permanent subcontractor. When I say "permanent,"</p> <p>8 he -- we guarantee him 10 hours a week of work.</p> <p>9 He's also a recently retired FDA person that was a</p> <p>10 friend of Larisa's who retired from FDA about a</p> <p>11 year ago.</p> <p>12 Q. Who is that?</p> <p>13 A. Dr. Robert Merker, M-e-r-k-e-r.</p> <p>14 Q. Has he assisted you in any of your</p> <p>15 litigation work?</p> <p>16 A. No, huh-uh, he has not.</p> <p>17 Q. And when you say -- you answered</p> <p>18 earlier that Dr. Rudenko has not yet -- not</p> <p>19 assisted you in any of your litigation work.</p> <p>20 Do you anticipate her -- asking her</p> <p>21 to assist you in any way in your litigation work?</p> <p>22 A. It's possible I may have her work</p> <p>23 with me on some cases in the -- in the future,</p> <p>24 yes. She has an interest, but right now she is</p>

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<p>1 not doing that. And the talc litigation I don't 2 know that she would because there's a lot to come 3 up to speed on. So I don't know if she has that 4 interest or not.</p> <p>5 Q. In what state did you set up this 6 new partnership?</p> <p>7 A. Texas. It's a Texas LLC.</p> <p>8 Q. What percentage of your business 9 time this year, that is 2021, has been spent on 10 litigation matters?</p> <p>11 A. Less than 30 percent.</p> <p>12 Q. Same question as to 2020.</p> <p>13 A. Also less than 30 percent in 2020.</p> <p>14 Q. Same question as to 2019.</p> <p>15 A. Oh, 2019 was probably about -- it 16 was probably a third. It was more of my income in 17 2019 than it was -- than it is in 2020 and 2021 so 18 far.</p> <p>19 Q. When you say as to 2021 and 2020 20 less than 30 percent, are you able to be any more 21 precise?</p> <p>22 A. Well, 2021 is kind of hard because I 23 don't have statistics for the year. In 2020, it 24 was actually about 18 percent of my -- of my -- my</p>	<p>1 That's we're 50 percent partners, so 50/50. I'm 2 sorry.</p> <p>3 She draws a salary as well. We draw 4 equal salaries right now from the company, and 5 then we pay -- we pay the subcontractors as well, 6 and they come out of whatever is brought in from 7 the company overall. So, in other words, we don't 8 segregate that only litigation assets go to 9 Dr. Plunkett. They go to the company, and then we 10 all share within that.</p> <p>11 Q. So you and Dr. Rudenko are paid the 12 exact same amount from the company?</p> <p>13 A. In terms of our salary, yes. Then 14 based on profit sharing, even though we're 50/50 15 partners, there may be some instances where she 16 has something that is just for her. Because she 17 had some old clients that came into the company 18 and so those are not handled the same way 19 necessarily as -- as other things.</p> <p>20 But anything that I bring in pretty 21 much is -- is distributed through the company with 22 equal shares to the -- to the partners, and then I 23 have -- I cover also right now -- because I have 24 many more clients than she does, I cover the</p>
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<p>1 time that I spent in 2020 because we did run -- I 2 did run a report for that just to figure out what 3 the change was. We had less income in 2020, but 4 we also -- when I say "less income," we had a lot 5 more income in the regulatory area.</p> <p>6 So the majority of the work I did in 7 2020 came out of regulatory projects with the new 8 BioPolicy Solutions clients or in -- also in 9 intellectual property work that I continued to do 10 with my sister's law firm.</p> <p>11 Q. Do the fees paid to you from your 12 litigation work go to the company or directly to 13 you?</p> <p>14 A. To the company.</p> <p>15 Q. What percentage of those fees do you 16 get personally?</p> <p>17 A. Well, I draw a salary from the 18 company. So whatever percentage that is, I don't 19 know. I can't tell you. I draw a salary. There 20 is this -- there was profit sharing between the 21 two of us. So there's distribution is how the LLC 22 is set up. I'm not a lawyer, but you do have to 23 distribute assets at the end of the year. So we 24 did distribute assets based on a 50/50 scale.</p>	<p>1 salaries for the subcontractors as well.</p> <p>2 Q. So the more litigation work that you 3 would do and bring in, you don't get any direct 4 benefit from that personally?</p> <p>5 A. Well, I do as the company does. If 6 the company benefits --</p> <p>7 Q. Right.</p> <p>8 A. -- I benefit, obviously. So 9 (laugh).</p> <p>10 Q. But you don't get -- your salary 11 doesn't go up above Dr. Rudenko based on the 12 amount of litigation work you do?</p> <p>13 A. No, that has not happened. Well, 14 and with the new company. So I'm telling you as 15 of today --</p> <p>16 Q. Okay.</p> <p>17 A. -- that's what we do.</p> <p>18 Q. Are you able to estimate how much 19 revenue your company has received this year from 20 litigation matters?</p> <p>21 A. No, I don't have the number for this 22 year. Like I said, it's about the same amount as 23 last year in terms of being less than 30 percent, 24 and my guess is it's closer to the less than 20</p>

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<p style="text-align: right;">Page 22</p> <p>1 percent. But I will tell you that with trials 2 kicking back in, it will absolutely be going up. 3 Q. Are you able to tell me the amount 4 of revenue your company received in 2020 from 5 litigation work? 6 MS. PARFITT: Objection. 7 You can answer. 8 THE WITNESS: I don't -- no, 9 I don't have a number. It was about 18 10 percent of -- of the revenue stream that 11 came in. So a company may -- I mean, we 12 can guess. You want me to guess? I can 13 guess for you, but I don't know. 14 BY MR. HEGARTY: 15 Q. Are you able to take 18 percent of 16 your revenue from the company in 2020 and give me 17 an estimate? 18 A. Well, the company made about 19 \$270,000 in 2020. So I don't have the math. I 20 think that was what it was after expenses. 21 Q. Fair enough. 22 A. Yeah. 23 Q. How about 2019? Are you able to 24 tell me the revenue received by your company from</p>	<p style="text-align: right;">Page 24</p> <p>1 Obviously the COVID pandemic work issues 2 impacted everyone, including me. 3 BY MR. HEGARTY: 4 Q. With regard to the percentage of 5 your -- with regard to your fees from litigation 6 consulting, what percentage of those fees this 7 year are from talc litigation? 8 A. From this year? I don't know. 9 Certainly I would tell you that right now it is 10 the most active litigation I'm involved in. It's 11 the only trials that have started back up for me 12 has been the talc trials. 13 Q. Okay. 14 A. So I can't tell you. I would 15 imagine if I could run the numbers for you at the 16 end of the year and find that out, but right now I 17 can't tell you, no. 18 MR. HEGARTY: We were provided 19 prior to the deposition copies of 20 invoices that I want to mark as exhibits. 21 I'm going to start by marking 22 as Exhibit No. 1 a copy of invoices that 23 begin with the first one of "Talc MDL" 24 November 30, 2018.</p>
<p style="text-align: right;">Page 23</p> <p>1 litigation matters in 2019? 2 A. I don't have that number off the top 3 of my head. I believe I have testified to that 4 before, though, maybe even in talc litigation, but 5 I don't recall. I would say maybe look back at my 6 deposition testimony in another case for talc and 7 I think that is there. 8 Q. Are you able to estimate the revenue 9 from your company from 2019? 10 MS. PARFITT: Objection. 11 THE WITNESS: I can only 12 estimate the -- are you asking -- are you 13 asking me what went into the taxes on the 14 tax forms? 15 BY MR. HEGARTY: 16 Q. Fair enough. 17 A. What I remember from 2020 was the 18 company -- 19 Q. I'm sorry. 2019. 20 A. Oh, I'm sorry. For 2019. The 2019 21 I don't recall -- 22 MS. PARFITT: Objection. 23 THE WITNESS: -- the exact 24 number, but it was more than 2020.</p>	<p style="text-align: right;">Page 25</p> <p>1 (Document marked for 2 identification as Plunkett Exhibit 1.) 3 BY MR. HEGARTY: 4 Q. Do you see that? 5 A. Yes. 6 Q. All of these invoices include as the 7 project name or description "Talc MDL"; is that 8 correct? 9 A. Yes. 10 Q. And I received the two sets of 11 invoices, and this is one set. 12 Are these invoices -- do these 13 invoices in Exhibit No. 1 represent those that you 14 have invoiced for your work on the Talc MDL? 15 A. Yes, that's correct. That's that -- 16 they're segregated that way because I believe you 17 asked for them that way on the notice of 18 deposition. 19 Q. If you turn over to the March 31, 20 2019 invoice? 21 A. Yes. 22 Q. When you -- when you make reference 23 to "review of documents," what do you include in 24 the definition of documents?</p>



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<p style="text-align: right;">Page 26</p> <p>1 A. So it would be any documents that --</p> <p>2 and the reason I use the word "documents" is</p> <p>3 because it's not just published literature public.</p> <p>4 It would include the internal company documents</p> <p>5 that I have access to. It could include</p> <p>6 deposition testimony of individuals, even myself</p> <p>7 within the case. So it's broader.</p> <p>8 It could include published</p> <p>9 literature, but it's a broad definition versus</p> <p>10 just published literature, for example.</p> <p>11 Q. And on that invoice it says</p> <p>12 "conference call re MDL deposition."</p> <p>13 Do you remember who the conference</p> <p>14 call was with?</p> <p>15 A. Don't remember the exact number of</p> <p>16 people, no, but I'm sure it was either someone --</p> <p>17 it may have been a combination of people from</p> <p>18 Beasley Allen and maybe Ms. Parfitt as well. I</p> <p>19 don't know. Both of those -- both of those firms</p> <p>20 are involved with me working on the MDL.</p> <p>21 Q. Would you turn to the last page of</p> <p>22 Exhibit No. 1. That invoice is not dated.</p> <p>23 Do you -- are you aware of a date of</p> <p>24 that invoice?</p>	<p style="text-align: right;">Page 28</p> <p>1 BY MR. HEGARTY:</p> <p>2 Q. Would you tell me what those sets --</p> <p>3 that set of invoices represents?</p> <p>4 A. This is other talc litigation. So</p> <p>5 this would be the state cases that I've worked on</p> <p>6 since my deposition that was given in the MDL.</p> <p>7 Q. Would you turn to the invoice dated</p> <p>8 April 30, 2020, and tell me when you can find it.</p> <p>9 A. Yes, I'm there.</p> <p>10 Q. The description of the work on that</p> <p>11 invoice says "review of documents and call with</p> <p>12 client."</p> <p>13 What does "client" mean?</p> <p>14 A. That would be the attorneys. I</p> <p>15 apologize.</p> <p>16 Q. Okay.</p> <p>17 A. Yeah. Yeah. Yeah. I don't -- I</p> <p>18 don't speak with plaintiffs specifically. This is</p> <p>19 my client would be the law firm.</p> <p>20 Q. Would you turn to the next invoice.</p> <p>21 That invoice is also not dated.</p> <p>22 Can you tell me the date of that</p> <p>23 invoice?</p> <p>24 A. I apologize these aren't dated. And</p>
<p style="text-align: right;">Page 27</p> <p>1 A. This would have -- should have been</p> <p>2 -- hold on. Should have been sent the end of -- I</p> <p>3 filed the report on July 2nd. So it would have</p> <p>4 been June 20 -- and I apologize. It should be on</p> <p>5 there.</p> <p>6 Q. Okay.</p> <p>7 A. June 2021.</p> <p>8 Q. Does the time set out in this report</p> <p>9 represent the -- all the time you spent in</p> <p>10 preparing your amended MDL report?</p> <p>11 A. Just this invoice?</p> <p>12 Q. Just this invoice.</p> <p>13 A. No. I would say document review</p> <p>14 that may have occurred early. Some of these</p> <p>15 documents that I reviewed in 2020 were discussed</p> <p>16 within my report. But I would say to you if you</p> <p>17 want to talk -- if you're asking me about the time</p> <p>18 I sat down and actually drafted it, it would be</p> <p>19 this time, yes.</p> <p>20 MR. HEGARTY: All right. The</p> <p>21 next set of invoices I will mark as</p> <p>22 Exhibit No. 2.</p> <p>23 (Document marked for</p> <p>24 identification as Plunkett Exhibit 2.)</p>	<p style="text-align: right;">Page 29</p> <p>1 you know what? Maybe I should get you those with</p> <p>2 dates on them. So I apologize for that. I don't</p> <p>3 know the -- the date. I'd have to look at the</p> <p>4 date --</p> <p>5 Q. Okay.</p> <p>6 A. -- to tell you what that was.</p> <p>7 The same thing with the next one I'm</p> <p>8 noticing it doesn't have a date either. So...</p> <p>9 Q. On the one we were looking at,</p> <p>10 there's a list -- there's a list of a number of</p> <p>11 cases.</p> <p>12 Are those all cases in which you</p> <p>13 have done -- done work on as reflected in this</p> <p>14 invoice?</p> <p>15 A. Yes. And so this was an unusual</p> <p>16 request from the law firm to break out document</p> <p>17 review into variety of different cases, and so</p> <p>18 that's what I did.</p> <p>19 Q. I did not see a reference in the</p> <p>20 invoices provided to the Kleiner case from</p> <p>21 Pennsylvania.</p> <p>22 Have you billed any time to the</p> <p>23 Kleiner case in Pennsylvania?</p> <p>24 A. Not yet, but I would be billing when</p>

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<p style="text-align: right;">Page 30</p> <p>1 I show up at the trial.</p> <p>2 Let me just clarify. The issue is</p> <p>3 that it wasn't until sometime in 2020 where I was</p> <p>4 asked to always make sure to reference individual</p> <p>5 cases if I could. Before that, I would -- may put</p> <p>6 MDL or state cases, but -- but I've been asked to</p> <p>7 do it this way.</p> <p>8 And actually based on the payment of</p> <p>9 this, I will tell you, being that it was paid in</p> <p>10 February, my guess is the bill would have been</p> <p>11 sometime within 90 days before that.</p> <p>12 Q. Okay.</p> <p>13 A. Okay? Just -- but I can -- if you</p> <p>14 need those, I can certainly provide that.</p> <p>15 Q. Would you turn to the next page.</p> <p>16 There's no description of the -- the matter other</p> <p>17 than "talc."</p> <p>18 A. (Laugh). I apologize for that.</p> <p>19 Q. What does this invoice represent?</p> <p>20 It's the one that's --</p> <p>21 A. Sure.</p> <p>22 Q. -- for 450 total.</p> <p>23 A. Yeah. So this would have been</p> <p>24 unspecified state cases. So, in other words,</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. You say you are in the process of</p> <p>2 preparing a report?</p> <p>3 A. Yes. I've been working on a report,</p> <p>4 yes.</p> <p>5 Q. And does this invoice reflect the</p> <p>6 time you spent in working on that report?</p> <p>7 A. As for this month that was -- that</p> <p>8 was invoiced here, yes, and there's another one.</p> <p>9 Q. And the next one --</p> <p>10 A. Yeah.</p> <p>11 Q. And the next one is also related to</p> <p>12 a Canada case.</p> <p>13 Is that the same matter?</p> <p>14 A. Same matter. This one hasn't -- let</p> <p>15 me see check something. Yeah. This one has not</p> <p>16 been paid you'll notice. So this is an</p> <p>17 outstanding invoice. So it says paid, that means</p> <p>18 I have received payment. If it isn't, then it's</p> <p>19 an outstanding invoice.</p> <p>20 Q. Do you know what Canadian province</p> <p>21 the case is pending in?</p> <p>22 A. I don't know.</p> <p>23 Q. You mentioned that it related to</p> <p>24 regulatory matters?</p>
<p style="text-align: right;">Page 31</p> <p>1 where I wasn't asked to specify or needed to</p> <p>2 specify a state case, but it is not the MDL. I</p> <p>3 always was asked to separate MDL from other cases.</p> <p>4 Q. Same question same answer for the</p> <p>5 next one?</p> <p>6 A. Yes, exactly.</p> <p>7 Q. That's the one that said \$1200.</p> <p>8 A. Uh-huh.</p> <p>9 Q. If you turn to the next one, there's</p> <p>10 a reference to a Canada case or cases.</p> <p>11 What is that?</p> <p>12 A. So I have been asked to look at</p> <p>13 issues related to the regulatory system in Canada</p> <p>14 and I have not yet filed a report, but I've been</p> <p>15 working on that.</p> <p>16 Q. Is that related to a particular</p> <p>17 matter or case?</p> <p>18 A. A case in Canada, but I don't know</p> <p>19 any more details. I have to -- to dig into that.</p> <p>20 Q. What law firm are you working with?</p> <p>21 A. I'm working through Beasley Allen</p> <p>22 and I believe Ms. Parfitt's firm, Ashcraft is also</p> <p>23 involved. But definitely, definitely Beasley</p> <p>24 Allen.</p>	<p style="text-align: right;">Page 33</p> <p>1 A. Well, the --</p> <p>2 MS. PARFITT: I'm going to</p> <p>3 object at this point in time, Mark, with</p> <p>4 regard to the fact there's been some</p> <p>5 consulting responsibilities.</p> <p>6 MR. HEGARTY: Fair enough.</p> <p>7 MS. PARFITT: Thank you.</p> <p>8 BY MR. HEGARTY:</p> <p>9 Q. Would you look through the rest of</p> <p>10 the invoices and tell me whether Exhibit No. 2</p> <p>11 represents the -- all of the invoices that you</p> <p>12 have provided to counsel since 2000 -- in 2019</p> <p>13 through 2021.</p> <p>14 A. Yes, I believe so because I actually</p> <p>15 went to my system and -- and had these pulled.</p> <p>16 Q. Okay.</p> <p>17 A. So, yes.</p> <p>18 Q. We talked earlier about your</p> <p>19 consulting outside of litigation matters.</p> <p>20 Are you currently consulting outside</p> <p>21 of litigation matters on any cosmetic product?</p> <p>22 A. Not a product. On ingredients.</p> <p>23 Q. What kind of ingredient?</p> <p>24 MS. PARFITT: I'm going to</p>

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<p style="text-align: right;">Page 34</p> <p>1 object at this point in time as well as</p> <p>2 far as her consulting activities because</p> <p>3 I'm not certain whether there's some</p> <p>4 proprietary aspect to which -- for which</p> <p>5 we would obviously be concerned.</p> <p>6 MR. HEGARTY: Let me lay some</p> <p>7 foundation.</p> <p>8 MS. PARFITT: Thank you.</p> <p>9 BY MR. HEGARTY:</p> <p>10 Q. And tell me whether you can answer</p> <p>11 the question.</p> <p>12 Are you able to provide the type of</p> <p>13 or description or generalities as to the</p> <p>14 ingredient as opposed to identifying the company</p> <p>15 you're working for?</p> <p>16 A. So I can give you some general</p> <p>17 description. I mean, the company is I typically</p> <p>18 would not do that without checking with the -- I'm</p> <p>19 working through an attorney on intellectual</p> <p>20 property issues as well as regulatory issues.</p> <p>21 Q. Are you able to through your -- are</p> <p>22 you able to give me any kind of general</p> <p>23 description of the cosmetic ingredient?</p> <p>24 A. Yes. I can tell you that there is a</p>	<p style="text-align: right;">Page 36</p> <p>1 ingredient?</p> <p>2 MS. PARFITT: Objection.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 That's a good question. It's possible</p> <p>5 that the finished products may. I don't</p> <p>6 know.</p> <p>7 BY MR. HEGARTY:</p> <p>8 Q. How many consulting matters did you</p> <p>9 have in 2019 involving cosmetics? Just</p> <p>10 approximately.</p> <p>11 A. Well, it was -- it was ongoing work.</p> <p>12 Q. These are non-litigation matters.</p> <p>13 A. In 2019 you said?</p> <p>14 Q. 2019.</p> <p>15 A. Probably 20 percent of the time that</p> <p>16 I spent overall in my consulting practice, and it</p> <p>17 was probably 80 percent of the work I was doing</p> <p>18 through my sister's law firm at the time.</p> <p>19 Q. Same question as to 2020.</p> <p>20 A. About the same. Although it also --</p> <p>21 I would say it wasn't all cosmetic ingredients. I</p> <p>22 also worked on some food ingredients for the same</p> <p>23 client --</p> <p>24 Q. Yeah.</p>
<p style="text-align: right;">Page 35</p> <p>1 variety of different types of ingredients.</p> <p>2 They're -- a lot of them are natural plant</p> <p>3 extracts. A lot of the ingredients I'm looking</p> <p>4 at. So they're complex mixtures of plant extracts</p> <p>5 that are going into various cosmetics based on the</p> <p>6 bioactivity of the -- of the ingredient.</p> <p>7 Q. Are you able to identify for me the</p> <p>8 types of cosmetics that these ingredients going on</p> <p>9 into?</p> <p>10 MS. PARFITT: I'm going to</p> <p>11 object again because I'm concerned we're</p> <p>12 getting a little too close to the</p> <p>13 proprietary nature of this.</p> <p>14 BY MR. HEGARTY:</p> <p>15 Q. Is that getting into the proprietary</p> <p>16 part of your consulting relationship?</p> <p>17 A. It would to give you the exact</p> <p>18 names. I could just tell you that it's all</p> <p>19 different kinds of products. They would go into a</p> <p>20 variety of different kinds of formulations. It's</p> <p>21 not just one particular product.</p> <p>22 Q. Are you currently consulting outside</p> <p>23 of litigation matters as to any cosmetic</p> <p>24 ingredient or any cosmetic that has talc as an</p>	<p style="text-align: right;">Page 37</p> <p>1 A. -- who is a company that has a</p> <p>2 variety of different kinds of subsidiaries.</p> <p>3 Q. And my question is exclusive as to</p> <p>4 cosmetic.</p> <p>5 A. I couldn't give you a percentage.</p> <p>6 As I say, I know I would worked on more than</p> <p>7 cosmetic ingredients for this client in 2020.</p> <p>8 Q. What percentage of your time in 2021</p> <p>9 has been spent on consulting matters involving a</p> <p>10 cosmetic ingredient?</p> <p>11 A. Probably about 20 percent of my</p> <p>12 overall time this year so far.</p> <p>13 Q. From 2019 to 2020, did you do any</p> <p>14 consulting for the American Chemistry Council?</p> <p>15 A. No.</p> <p>16 Q. Have you consulted from 2019 to</p> <p>17 today with any trade group?</p> <p>18 A. No, I don't believe so.</p> <p>19 Q. Have you consulted from 2019 to</p> <p>20 today with any pesticide manufacturer?</p> <p>21 MS. PARFITT: Again, just</p> <p>22 object just to the extent it may reveal</p> <p>23 some proprietary relationship. So...</p> <p>24 THE WITNESS: No, I don't</p>

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<p style="text-align: right;">Page 38</p> <p>1 believe I have. No.</p> <p>2 BY MR. HEGARTY:</p> <p>3 Q. Have you consulted from 2019 to</p> <p>4 today with any chemical manufacturer?</p> <p>5 MS. PARFITT: Again, objection</p> <p>6 to the extent it may involve some type of</p> <p>7 proprietary consulting arrangement.</p> <p>8 THE WITNESS: Yes. There have</p> <p>9 been some companies that make chemicals,</p> <p>10 yeah, with the general term "chemical,"</p> <p>11 yes.</p> <p>12 BY MR. HEGARTY:</p> <p>13 Q. All right. What -- what are your</p> <p>14 limitations on talking about those consulting</p> <p>15 matters?</p> <p>16 A. Because it comes through an</p> <p>17 attorney. So I look at what I do as being</p> <p>18 privileged and confidential without gaining -- in</p> <p>19 other words, it's not a direct agreement with the</p> <p>20 -- I don't have a direct contract with the</p> <p>21 company. I work through a law firm.</p> <p>22 Q. Okay. Have you done any consulting</p> <p>23 in the last three years on any lead paint product?</p> <p>24 MS. PARFITT: Again, objection</p>	<p style="text-align: right;">Page 40</p> <p>1 MS. PARFITT: -- I just --</p> <p>2 THE WITNESS: Okay.</p> <p>3 MS. PARFITT: -- caution you</p> <p>4 to be careful with --</p> <p>5 MR. HEGARTY: Yeah.</p> <p>6 MS. PARFITT: -- regard to any</p> <p>7 type of proprietary --</p> <p>8 BY MR. HEGARTY:</p> <p>9 Q. And this question --</p> <p>10 MS. PARFITT: -- arrangement.</p> <p>11 BY MR. HEGARTY:</p> <p>12 Q. And this question would be public.</p> <p>13 That's public.</p> <p>14 A. Yeah. Not -- no, not in that time</p> <p>15 frame. I have not.</p> <p>16 Q. Have you communicated with any</p> <p>17 regulatory agency or group on any topic in the</p> <p>18 2019 to 2021 time period?</p> <p>19 A. Yes.</p> <p>20 Q. What agency, what regulatory agency</p> <p>21 or group?</p> <p>22 A. So I -- you should be aware I was --</p> <p>23 I attended and participated in the February</p> <p>24 2020 --</p>
<p style="text-align: right;">Page 39</p> <p>1 to the extent it reveals any consulting</p> <p>2 proprietary agreement that Dr. Plunkett</p> <p>3 has.</p> <p>4 THE WITNESS: No, I can say</p> <p>5 that definitively I have not. That has</p> <p>6 not come up in the last couple of years.</p> <p>7 BY MR. HEGARTY:</p> <p>8 Q. Same question as to any pesticide</p> <p>9 products.</p> <p>10 MS. PARFITT: Objection to the</p> <p>11 extent it goes into proprietary</p> <p>12 consulting arrangements.</p> <p>13 THE WITNESS: I do, indeed,</p> <p>14 continue to work on some issues related</p> <p>15 to products that are active ingredients</p> <p>16 in pesticide formulations, yes.</p> <p>17 BY MR. HEGARTY:</p> <p>18 Q. Have you communicated with any</p> <p>19 regulatory agency or group on behalf of the</p> <p>20 American Chemistry Council or any other company or</p> <p>21 trade group in the 2019-2021 time period?</p> <p>22 MS. PARFITT: Objection.</p> <p>23 Again, Dr. Plunkett --</p> <p>24 THE WITNESS: Myself, no.</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Yes.</p> <p>2 A. -- talc meeting at FDA.</p> <p>3 Q. Any other such regulatory agency or</p> <p>4 group meeting or presentations that you were</p> <p>5 involved in?</p> <p>6 A. Yes, for some of my clients. Again,</p> <p>7 some of that is confidential work at this point,</p> <p>8 but, yes, I -- in the BioPolicy Solutions space,</p> <p>9 I'm currently assisting with regulatory</p> <p>10 submissions to the FDA for four different clients.</p> <p>11 So I'm interacting with the FDA by e-mail at</p> <p>12 least, but also we've had some virtual meetings.</p> <p>13 Q. Are there any -- have there been any</p> <p>14 publicly available or publicly aware -- known</p> <p>15 communications with any regulatory group or any</p> <p>16 regulatory agency or group besides the FDA?</p> <p>17 MS. PARFITT: Again, object.</p> <p>18 I'm not sure I understand the question.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. Where you -- sure.</p> <p>21 Other than your presentation to FDA</p> <p>22 in February 2020, have you communicated in a</p> <p>23 public way that's not in a confidential manner</p> <p>24 with any other regulatory agency or group in the</p>

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<p style="text-align: right;">Page 42</p> <p>1 2019-2021 time period?</p> <p>2 MS. PARFITT: About anything</p> <p>3 at all?</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. About anything.</p> <p>6 A. Outside of the FDA?</p> <p>7 Q. Yes.</p> <p>8 A. Yes.</p> <p>9 Q. What have you done outside of the</p> <p>10 FDA?</p> <p>11 MS. PARFITT: Objection.</p> <p>12 THE WITNESS: Just in general</p> <p>13 I can tell you that I've had interactions</p> <p>14 with the Singapore Food Authority. I've</p> <p>15 had some interactions with the EFSA and</p> <p>16 interactions with the Ministry of Health,</p> <p>17 Labour and Welfare, MHLW, in Japan.</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. What --</p> <p>20 A. And also -- and also FSANZ, Food</p> <p>21 Safety -- the food safety group New Zealand and</p> <p>22 Australia. I think it's called FSANZ, F-S-A-N-Z.</p> <p>23 Q. You said an acronym earlier.</p> <p>24 What was that acronym?</p>	<p style="text-align: right;">Page 44</p> <p>1 was food. EFSA was food, but not</p> <p>2 everything was food.</p> <p>3 BY MR. HEGARTY:</p> <p>4 Q. Would any of those product have talc</p> <p>5 as an ingredient?</p> <p>6 MS. PARFITT: Objection.</p> <p>7 THE WITNESS: That I worked</p> <p>8 on?</p> <p>9 BY MR. HEGARTY:</p> <p>10 Q. That you worked on.</p> <p>11 A. The project -- I don't believe so,</p> <p>12 but I can't -- I don't think so, no.</p> <p>13 Q. Other than the interaction you had</p> <p>14 with FDA in 2020, have you provided testimony to</p> <p>15 any regulatory group or organization in the 2019</p> <p>16 to 2021 time period?</p> <p>17 A. Not how I define testimony as having</p> <p>18 been like in a public meeting or commenting, no.</p> <p>19 MS. PARFITT: And I assume</p> <p>20 that was the nature of the question.</p> <p>21 MR. HEGARTY: Correct. That</p> <p>22 was my question.</p> <p>23 BY MR. HEGARTY:</p> <p>24 Q. How about where you submitted a</p>
<p style="text-align: right;">Page 43</p> <p>1 A. MHLW. The Ministry of Health,</p> <p>2 Labour and Welfare I believe is what it means at</p> <p>3 Japan. It's the -- it's the Japanese equivalent</p> <p>4 to -- they do a lot of the same things that the</p> <p>5 FDA does for certain kinds of products.</p> <p>6 Q. The other one you mentioned was</p> <p>7 EFSA?</p> <p>8 A. EFSA.</p> <p>9 Q. What is that?</p> <p>10 A. European Food Safety Authority. So</p> <p>11 it's a separate body that advises the European</p> <p>12 Union, the EC, and the European Commission on</p> <p>13 issues related to food safety.</p> <p>14 Q. Did all of these interactions that</p> <p>15 you just mentioned involve food safety in one way</p> <p>16 or another?</p> <p>17 MS. PARFITT: Again, to the</p> <p>18 extent it involves any proprietary</p> <p>19 communication --</p> <p>20 THE WITNESS: Sure.</p> <p>21 MS. PARFITT: -- I ask you not</p> <p>22 to respond.</p> <p>23 THE WITNESS: Product safety</p> <p>24 in general I would say. Not everything</p>	<p style="text-align: right;">Page 45</p> <p>1 written statement that's public to any regulatory</p> <p>2 group or organization? Have you done that in the</p> <p>3 2019 to 2021 time period?</p> <p>4 A. Nothing that's public, but I have</p> <p>5 submitted comments to the agencies as part of my</p> <p>6 work with clients that is still considered</p> <p>7 confidential business information.</p> <p>8 MR. HEGARTY: I'm going to</p> <p>9 mark as the next exhibit Exhibit No. 3.</p> <p>10 (Document marked for</p> <p>11 identification as Plunkett Exhibit 3.)</p> <p>12 BY MR. HEGARTY:</p> <p>13 Q. Exhibit No. 3 is the list of</p> <p>14 testimony that we have been provided that you have</p> <p>15 given either by deposition or at trial in the last</p> <p>16 four years or I guess since 2016.</p> <p>17 Is this list that we marked as</p> <p>18 Exhibit No. 3 a complete list of the testimony</p> <p>19 that you have provided either by deposition or at</p> <p>20 trial in litigation since 2016?</p> <p>21 A. Yes.</p> <p>22 Q. If you would turn over to page 5,</p> <p>23 there's a reference towards the bottom to Coleman</p> <p>24 case, Cook Medical?</p>

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<p style="text-align: right;">Page 46</p> <p>1 A. Uh-huh.</p> <p>2 Q. Can you give any better description</p> <p>3 of what that matter is?</p> <p>4 A. It was an IVC filter that was</p> <p>5 manufactured by Cook Medical. Particular -- I</p> <p>6 don't remember the particular model but -- and I</p> <p>7 gave a deposition related to the injuries caused</p> <p>8 by, but I was mainly talking in this case about</p> <p>9 some of the regulatory oversight for 510(k)</p> <p>10 devices at FDA. I was working on behalf of</p> <p>11 plaintiffs that had filed injury cases, and this</p> <p>12 actually may have been someone who died. I'm not</p> <p>13 sure.</p> <p>14 Q. Do you recall where that case was</p> <p>15 located?</p> <p>16 A. What state? I don't know. I can't</p> <p>17 tell you that. I don't recall.</p> <p>18 Q. Would you turn --</p> <p>19 A. Could be -- this could be one that</p> <p>20 settled. So I just don't -- I don't recall.</p> <p>21 Q. Would you turn over to page 7,</p> <p>22 please. Towards the top, there's a reference to</p> <p>23 McDermott case.</p> <p>24 Can you provide any more details</p>	<p style="text-align: right;">Page 48</p> <p>1 been any kinds of global settlement or things like</p> <p>2 that.</p> <p>3 Q. Do you have any depositions</p> <p>4 scheduled in 2021 after today?</p> <p>5 A. No. Just some trial testimony</p> <p>6 that's scheduled.</p> <p>7 Q. And that trial testimony would</p> <p>8 include -- or let me back -- let me back up.</p> <p>9 Other than talc cases, do you have</p> <p>10 any planned trial testimony in 2021?</p> <p>11 A. I have --</p> <p>12 MS. PARFITT: Where you've</p> <p>13 been disclosed.</p> <p>14 THE WITNESS: Yeah.</p> <p>15 BY MR. HEGARTY:</p> <p>16 Q. Where you've been disclosed, yes.</p> <p>17 A. Yeah. Yeah. Yeah.</p> <p>18 So, no, I have dates on my calendar</p> <p>19 for upcoming trials in several IVC filter cases,</p> <p>20 and I have an upcoming trial testimony scheduled</p> <p>21 in November for Taxotere.</p> <p>22 Q. What defense firm represents the</p> <p>23 defendant in the IVC filter cases?</p> <p>24 A. Oh, a lot of different defense</p>
<p style="text-align: right;">Page 47</p> <p>1 about that case name besides the McDermott case?</p> <p>2 A. So that I believe was also an IVC</p> <p>3 filter case, and I'd have to dig out to get you</p> <p>4 which company was involved. It may have -- it was</p> <p>5 -- it would have either been Rex Argon, Cook</p> <p>6 Medical, or Cordis.</p> <p>7 Q. Okay.</p> <p>8 A. Those are the three types of</p> <p>9 devices -- those are the manufacturers of the</p> <p>10 three types of devices that I have been working</p> <p>11 on.</p> <p>12 Q. Have there been any cases since 2018</p> <p>13 where you have been identified or disclosed as an</p> <p>14 expert witness, but where you have not given</p> <p>15 deposition or trial testimony?</p> <p>16 Besides those listed in --</p> <p>17 A. Well, I --</p> <p>18 Q. -- Exhibit 3.</p> <p>19 A. Yeah. So I'm sure that I have been</p> <p>20 designated in other talc cases, for example. That</p> <p>21 for sure, and I'm sure there's other IVC filter</p> <p>22 cases. Those are the two areas of litigation that</p> <p>23 are what I call active right now where I know that</p> <p>24 there are trials upcoming and that there hasn't</p>	<p style="text-align: right;">Page 49</p> <p>1 firms. I can't tell you. I'm trying to think</p> <p>2 who -- I'm trying to think of his name.</p> <p>3 Q. Is there a national counsel?</p> <p>4 A. Yeah, I'm sure there -- well, there</p> <p>5 is for Cordis. I'm not sure on Rex Argon. It's a</p> <p>6 company based out -- all the cases are coming out</p> <p>7 of Philadelphia because they're a Pennsylvania</p> <p>8 firm. I'm trying to think who showed up. There</p> <p>9 are people I don't usually see.</p> <p>10 Q. Okay.</p> <p>11 A. They're not -- they're not like</p> <p>12 Covington and the big firms that I sometimes see.</p> <p>13 Or like your firm. Yeah.</p> <p>14 Q. So you don't remember who represents</p> <p>15 Cordis?</p> <p>16 A. No. But if you go to the</p> <p>17 depositions, obviously if you pull the</p> <p>18 depositions, you'll -- you'll -- they will all be</p> <p>19 listed there.</p> <p>20 MR. HEGARTY: I'm going to</p> <p>21 mark next as Exhibit 4 a copy of at least</p> <p>22 one of the more recent CVs of yours.</p> <p>23 (Document marked for</p> <p>24 identification as Plunkett Exhibit 4.)</p>

13 (Pages 46 to 49)

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<p style="text-align: right;">Page 50</p> <p>1 BY MR. HEGARTY:</p> <p>2 Q. Would you look at that and tell me</p> <p>3 whether that is, I guess, the -- the more recent</p> <p>4 CV of yours with one update needed; is that</p> <p>5 correct?</p> <p>6 A. That's correct. Yes.</p> <p>7 Q. What is that update?</p> <p>8 A. So on page 3 -- oh, no. This one</p> <p>9 actually has it. No. This one is good. (Laugh).</p> <p>10 It has it on page 3.</p> <p>11 I was looking for one that has the</p> <p>12 listing for "President, Society of Toxicology,</p> <p>13 Risk Assessment Specialty Section." So this one</p> <p>14 is an updated one. So you have it.</p> <p>15 Q. Okay. Good.</p> <p>16 So Exhibit 4 is your current</p> <p>17 curriculum vitae?</p> <p>18 A. That's correct.</p> <p>19 Q. You can keep that in front of you.</p> <p>20 A. All right.</p> <p>21 Q. Your curriculum vitae includes all</p> <p>22 of your publications; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. It also includes all of your</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Did that presentation touch on any</p> <p>2 of the matters or opinions that you have in your</p> <p>3 MDL reports?</p> <p>4 A. It did touch -- I did use -- I did</p> <p>5 talk or was asked questions, actually, by the</p> <p>6 students about talc and ovarian cancer. So, yes.</p> <p>7 I don't think I had a slide on that, but it came</p> <p>8 up because the students were -- had seen --</p> <p>9 obviously in the press they see things, and they</p> <p>10 were very interested in sort of topical nature of</p> <p>11 the kinds of things that are out there that deal</p> <p>12 with the issue of reproductive toxicology.</p> <p>13 Q. Who invited you to give that</p> <p>14 lecture?</p> <p>15 A. Judith Zelikoff. She's -- I met her</p> <p>16 through the Society of Toxicology. We were both</p> <p>17 on the nominating committee several years ago and</p> <p>18 became friends, and I like to lecture and she's</p> <p>19 happy to bring people in from outside.</p> <p>20 Q. Do you know that she's also a</p> <p>21 plaintiff's expert in the MDL?</p> <p>22 A. I do now. It's funny. When she and</p> <p>23 I first met and I agreed to work with her, I did</p> <p>24 not know that, but yes.</p>
<p style="text-align: right;">Page 51</p> <p>1 abstracts and presentations?</p> <p>2 A. Yes.</p> <p>3 Q. If you turn over to page, I think,</p> <p>4 7, there's a couple abstracts listed there since</p> <p>5 2019. They are actually dated 2021.</p> <p>6 What did those pertain to?</p> <p>7 A. They're presentations that I gave at</p> <p>8 two different meetings on the issues of regulatory</p> <p>9 and commercialization issues with CBD products.</p> <p>10 Cannabidiol is abbreviated CBD.</p> <p>11 Q. Would you turn over to the</p> <p>12 presentations list on page 13. You have a couple</p> <p>13 presentations listed there in paragraphs 1 and 2</p> <p>14 where you were invited lecturer first at NYU.</p> <p>15 What did that lecture involve?</p> <p>16 A. It was a general toxicology lecture</p> <p>17 in a course that is held -- it's part of their</p> <p>18 master's program at NYU and I was -- my lecture</p> <p>19 was a general topic of reproductive toxicology.</p> <p>20 In other words, how do you test for it. Examples</p> <p>21 of reproductive toxicants. What kinds of injuries</p> <p>22 can be seen in people that may be harmed by</p> <p>23 something that attacks the parts of the</p> <p>24 reproductive system.</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. You mentioned that you knew her</p> <p>2 before being invited --</p> <p>3 A. Yes.</p> <p>4 Q. -- to this lecture?</p> <p>5 A. That's correct. Yes. Through the</p> <p>6 Society of Toxicology.</p> <p>7 Q. Paragraph 2 lists another</p> <p>8 presentation.</p> <p>9 What did that -- I'm sorry. That's</p> <p>10 the one we'll talk about here in a moment. I</p> <p>11 meant paragraph number 3.</p> <p>12 What did that lecture concern?</p> <p>13 A. So that was a general lecture again,</p> <p>14 and she had a different course on risk assessment</p> <p>15 that year, and that course she asked me to speak</p> <p>16 about my experience with risk assessment for</p> <p>17 pesticides. And so I called it "Pesticide</p> <p>18 Toxicology" being that recently that was -- that's</p> <p>19 the underpinning of the risk assessment. It's</p> <p>20 done for registration of pesticides in the U.S.</p> <p>21 You have to do a series of toxicological</p> <p>22 evaluations.</p> <p>23 Q. This was, again, through</p> <p>24 Dr. Zelikoff?</p>

14 (Pages 50 to 53)



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<p>1 A. Yes, exactly. Different course, but 2 yes. 3 Q. You mentioned that with regard to 4 the presentation that's listed in paragraph 5 number 1 you did prepare a PowerPoint presentation 6 for that? 7 A. Yes. 8 Q. How about the presentation mentioned 9 in paragraph number 3? 10 A. Yes, I did for that one as well. 11 Q. Since your -- 12 A. I should also tell you. I didn't 13 put this on here. In number 1, that was actually 14 a virtual presentation because we weren't allowed 15 to travel. So the 2019 one I actually traveled up 16 to New York City, but that one was a virtual 17 presentation. 18 Q. Since your MDL deposition in 19 December of 2018, have you given any presentations 20 to any group besides the FDA presentation where 21 talc was discussed and this presentation that we 22 just talked about at NYU? 23 A. Uh-huh. I don't believe so, no. 24 Q. Same question as to ovarian cancer.</p>	<p>1 On talc and those kinds of things, no. 2 BY MR. HEGARTY: 3 Q. And since your deposition in 4 December 2018 in the MDL, have you written -- have 5 you published any article where you discussed any 6 of these topics: talc, ovarian cancer, asbestos, 7 heavy metals, silica, or fragrances? 8 A. No, not in a -- in an article, no. 9 Q. You mentioned earlier that you 10 had -- or let me strike that. 11 You identified in recent testimony a 12 committee of the EPA to which you self-nominated 13 in 2020. 14 Do you recall that testimony? 15 A. Yes, I do. 16 Q. Can you identify for me any other 17 committees that you are nominated for either 18 yourself or by others to which you were not 19 selected? 20 A. Not since -- not since my last 21 deposition. If you're limiting it to that time 22 period, that would have been the only example. In 23 the past, I have volunteered for committees at EPA 24 and may not have been chosen, but I don't -- I</p>
Page 55	Page 57
<p>1 A. I don't believe, other than the 2 reproductive toxicology, no. 3 Q. Same question as to asbestos. 4 A. No, I don't believe I touched on 5 asbestos, actually, in those -- in that 6 presentation -- either of those -- those lectures. 7 Q. Same question as to heavy metals. 8 A. I did speak to heavy metals with 9 reproductive toxicology because there's enough -- 10 there's several that deal with -- you have to deal 11 with that issue. 12 Q. Since your MDL deposition in 13 December 2018, have you given any presentations 14 for any group where silica was discussed? 15 A. I don't believe so, no. 16 Q. How about where fragrances were 17 discussed? 18 A. Don't think so, no. 19 Q. Do you have any presentations 20 planned through the rest of 2021 or 2022 regarding 21 any of the topics I just covered? 22 MS. PARFITT: Objection. 23 THE WITNESS: Other than 24 trial testimony, no, I don't believe so.</p>	<p>1 don't have a list of those. So I can't tell you 2 that. 3 Q. Okay. With regard to the EPA 4 committee to which you were not selected in 2020, 5 do you have any documentation from -- remaining 6 from your submission or from comments back or from 7 any correspondence? 8 A. The only documentation, there was a 9 document marked as an exhibit at trial that had 10 the summary that I wrote. That summary was 11 actually something that I wrote and that EPA put 12 into the -- the docket, I guess, to describe who 13 was being nominated. 14 I may have an e-mail because I know 15 I got an e-mail in maybe late 2020, early 2021 16 saying that I had not been chosen, but they were 17 keeping my credentials on record for further 18 committees that may come up. 19 Q. Other than possibly an e-mail, do 20 you have any other documents related to the 21 nomination for or response by this EPA committee 22 in 2020? 23 A. No, I do not. 24 Q. Since your MDL deposition in 2018,</p>

15 (Pages 54 to 57)

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<p style="text-align: right;">Page 58</p> <p>1 have you discussed your opinions in your June 2021</p> <p>2 MDL report with any colleague or group not</p> <p>3 involved in the litigation that we have not</p> <p>4 discussed already?</p> <p>5 MS. PARFITT: I'm going to</p> <p>6 object to the form.</p> <p>7 If you could, you're free to</p> <p>8 answer.</p> <p>9 THE WITNESS: Other than --</p> <p>10 other than confidential discussions with</p> <p>11 attorneys, no. If you're asking me about</p> <p>12 scientists outside of, no, I haven't. I</p> <p>13 haven't done that.</p> <p>14 BY MR. HEGARTY:</p> <p>15 Q. You mentioned earlier that you</p> <p>16 appeared at the February 4, 2020 FDA meeting,</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Did you hear about this meeting on</p> <p>20 your own?</p> <p>21 A. I do believe I saw it in the Federal</p> <p>22 Register on my own. I don't know whether, though,</p> <p>23 I had been told about it first by the attorneys</p> <p>24 that are involved in litigation, but I did see it</p>	<p style="text-align: right;">Page 60</p> <p>1 go from making that call to actually being listed</p> <p>2 as a presenter?</p> <p>3 A. So I had to be --</p> <p>4 MS. PARFITT: Objection.</p> <p>5 Form.</p> <p>6 THE WITNESS: All I know is I</p> <p>7 know I had to request. I had to send</p> <p>8 in -- on the website for the FDA, they</p> <p>9 had you send in your name and your</p> <p>10 request and what you want to talk about.</p> <p>11 So I sent that in myself and I was</p> <p>12 given -- what was it? -- five minutes</p> <p>13 during the public comment period to</p> <p>14 present.</p> <p>15 BY MR. HEGARTY:</p> <p>16 Q. Do you still have what you sent to</p> <p>17 FDA in some electronic or document form?</p> <p>18 A. You mean my -- my PowerPoint</p> <p>19 presentation?</p> <p>20 Q. No, I'm sorry. What you submitted</p> <p>21 to FDA --</p> <p>22 A. Oh, the ask.</p> <p>23 Q. -- to be put on the -- on the</p> <p>24 speaker list.</p>
<p style="text-align: right;">Page 59</p> <p>1 on my own as well. I get what I call daily</p> <p>2 newsletters where those kinds of things show up</p> <p>3 from the FDA world, and so it was -- it was posted</p> <p>4 and made available on those newsletters.</p> <p>5 Q. How did you come to speak at that</p> <p>6 presentation?</p> <p>7 A. Well, I actually -- I actually</p> <p>8 called the attorneys and let them know that I was</p> <p>9 interested in doing so, and so actually I -- that</p> <p>10 was on my own dime. I paid my own way to go</p> <p>11 and -- and developed my own comments in order to</p> <p>12 present at the meeting. I wanted it to be</p> <p>13 Dr. Plunkett, not Dr. Plunkett through another --</p> <p>14 another body.</p> <p>15 Q. You mentioned that you communicated</p> <p>16 with the attorneys about going.</p> <p>17 What attorneys?</p> <p>18 A. I believe I spoke with Mr. Meadows,</p> <p>19 Ms. O'Dell, and maybe Ms. Parfitt was on the</p> <p>20 phone. I don't recall, but I did -- they would --</p> <p>21 I called them. Obviously I wouldn't have done it</p> <p>22 without letting them know that I was doing that</p> <p>23 and that I had an interest in doing that.</p> <p>24 Q. To the extent you know, how did you</p>	<p style="text-align: right;">Page 61</p> <p>1 A. I might. I might. I'm sure I have</p> <p>2 the e-mail still. I believe I did send a little</p> <p>3 bio sketch of who I am. So I probably do have</p> <p>4 that.</p> <p>5 Q. Did you get a response back from FDA</p> <p>6 to which you still have a copy of?</p> <p>7 A. I got the e-mail back saying you --</p> <p>8 you can present during the public meeting. You're</p> <p>9 one of so many. This is how many minutes you</p> <p>10 have. Maybe it was three minutes. I don't</p> <p>11 remember, but it was a very small amount of time</p> <p>12 that everybody was given to -- to present.</p> <p>13 Q. Do you still have that e-mail?</p> <p>14 A. I possibly do on that. That's</p> <p>15 probably in my archives, yes.</p> <p>16 Q. But you had actually requested by</p> <p>17 contacting FDA to speak at that FDA meeting?</p> <p>18 A. Yes. Yes, that was the -- that was</p> <p>19 the -- what was -- what was told -- that's what</p> <p>20 you were told to do at the website. If you wanted</p> <p>21 to speak, to send this in.</p> <p>22 Q. Did you understand that this was a</p> <p>23 public meeting where anyone could appear?</p> <p>24 A. Yes. Well, within limits of the</p>

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<p style="text-align: right;">Page 62</p> <p>1 time that they had set aside. That was my 2 understanding. 3 Q. Other than sending in the 4 required -- requested information via the website, 5 did FDA ask you for any additional information? 6 A. I don't recall. I don't believe so, 7 no, once -- once that you were told you could and 8 you were given the time period. 9 Q. Did you meet with any lawyers for 10 the plaintiff in the talc litigation about your 11 testimony that you were going to provide at that 12 meeting? 13 A. I notified them and provided them a 14 copy of the slides I was going to present, yes, so 15 they had an understanding of what I was going to 16 do. 17 Q. Did they provide to you revisions or 18 comments or suggestions as to your slide deck? 19 A. No revisions, no. I mainly got 20 feedback, general feedback that -- that it was 21 fine. 22 MS. PARFITT: Objection. 23 THE WITNESS: You know, 24 essentially, I mean, it was -- there was</p>	<p style="text-align: right;">Page 64</p> <p>1 THE WITNESS: So Ms. O'Dell 2 was there. Mr. Meadows was there. 3 Ms. Parfitt I believe. Maybe you were 4 there. I think so. Mr. Beattie, were 5 you there? I can't recall. 6 BY MR. HEGARTY: 7 Q. Only who you can recall. 8 A. Yeah. Okay. So those three for 9 sure. And then there were some other people there 10 that I have recognized from the past, but I just 11 remember going into the room and seeing people 12 that I recognized from when I used to live in DC, 13 but a specific name I can't tell you. 14 Q. Did -- other than I think you 15 mentioned having coffee with Ms. O'Dell before the 16 meeting, did you meet with or had communications 17 with any other plaintiff's attorney in the talc 18 litigation before the meeting about your 19 testimony? 20 MS. PARFITT: Objection. 21 THE WITNESS: No. I had 22 conversations about I'm going. I'm going 23 to be staying here. Where are you 24 staying? Because we did get together for</p>
<p style="text-align: right;">Page 63</p> <p>1 no -- there was no give-and-take. There 2 was no -- there was no change as to the 3 slides made at the request of the 4 attorneys. 5 BY MR. HEGARTY: 6 Q. Ms. Leigh O'Dell was at the meeting, 7 correct? 8 A. She did. She presented, yes. 9 Q. Did you meet or talk with her 10 beforehand about the meeting? 11 A. Only -- not about the specifics of 12 the meeting, but yes, she was there. We had 13 coffee together. There were other people from -- 14 attorneys I've worked with that were at the 15 meeting, but so I did see them there. I just 16 didn't -- we did not -- we did not discuss any 17 particular issues related to what I was going to 18 be presenting, other than the time period I had. 19 Q. You mentioned that you saw other 20 attorneys there that you knew. 21 What other attorneys did you know 22 that were there? 23 MS. PARFITT: Objection. 24 Form.</p>	<p style="text-align: right;">Page 65</p> <p>1 a dinner or a meal after the -- after the 2 -- after the hearing. 3 BY MR. HEGARTY: 4 Q. Who did you get together for a 5 dinner or a meal after the meeting? 6 A. Ms. O'Dell, Mr. Meadows, 7 paralegal -- a couple paralegals. I think that 8 there was -- there was at least one or two of the 9 plaintiffs, the clients of the law firms were 10 there. And I think at least one of them presented 11 and I -- and I'd have to go back and look for the 12 names. I apologize. 13 Q. Did -- did you pay for your own 14 lunch or meal? 15 A. Yes. I paid all my expenses and -- 16 and my hotel and my plane and all of that, yes. 17 Q. That would include the dinner that 18 you had? 19 A. Oh, some -- you know what? They may 20 have picked up the cost for the dinner afterwards. 21 I don't recall. I believe, though, but I did -- I 22 did pay my -- all my other expenses. That one I 23 don't recall whether I threw my credit card down 24 or not. I can't tell you.</p>

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<p style="text-align: right;">Page 66</p> <p>1 Q. And when you say you paid for it</p> <p>2 with your own -- your own money, does that mean</p> <p>3 you didn't bill that money?</p> <p>4 A. No. Yeah.</p> <p>5 Q. You billed those expenses or that</p> <p>6 time?</p> <p>7 A. No. It was an expense for my</p> <p>8 company and me personally at the time.</p> <p>9 Q. There were six other plaintiff's</p> <p>10 experts who spoke at that meeting.</p> <p>11 Did you meet or talk with any of</p> <p>12 them?</p> <p>13 A. I saw them at the meeting, but I did</p> <p>14 not, and a couple of them may have been at the</p> <p>15 dinner afterwards or the meal afterwards, and I</p> <p>16 don't even know if it was dinner. It may have</p> <p>17 been a lunch meeting afterwards, but yes.</p> <p>18 Q. Do you remember their names?</p> <p>19 A. I believe Dr. Godleski was there,</p> <p>20 and I don't know. That's the one I recall.</p> <p>21 Q. Did you ride with any attorney for</p> <p>22 plaintiffs in the talc litigation to the hearing?</p> <p>23 MS. PARFITT: Objection.</p> <p>24 THE WITNESS: We stayed in</p>	<p style="text-align: right;">Page 68</p> <p>1 A. I did.</p> <p>2 Q. Other than what you talked about</p> <p>3 with regard to providing this to counsel for</p> <p>4 plaintiffs in the talc litigation, did any lawyer</p> <p>5 for plaintiffs in the talc litigation assist you</p> <p>6 in preparing this PowerPoint presentation?</p> <p>7 MS. PARFITT: Objection.</p> <p>8 Asked and answered.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. HEGARTY:</p> <p>11 Q. Did anyone besides yourself assist</p> <p>12 you in preparing the PowerPoint?</p> <p>13 MS. PARFITT: Objection.</p> <p>14 Asked and answered.</p> <p>15 THE WITNESS: My husband made</p> <p>16 them look pretty. The slides. So, yes.</p> <p>17 He does formatting for me. So he would</p> <p>18 have assisted with that.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. With regard to the slide that says</p> <p>21 "Fibers in Talc Body Powders"?</p> <p>22 A. The one that says "Publicly</p> <p>23 Available" right here?</p> <p>24 Q. Correct.</p>
<p style="text-align: right;">Page 67</p> <p>1 different hotels. So my guess is no. I</p> <p>2 know I did not ride there, but I</p> <p>3 certainly did leave the meeting in Ubers</p> <p>4 with other people, yes. Or I shouldn't</p> <p>5 say Uber. That's kind of an</p> <p>6 advertisement. In a cab. (Laugh).</p> <p>7 BY MR. HEGARTY:</p> <p>8 Q. Okay. Fair enough.</p> <p>9 A. Afterwards. I was headed back into</p> <p>10 the city. I didn't leave the city until the next</p> <p>11 day.</p> <p>12 MR. HEGARTY: You mentioned a</p> <p>13 moment ago that you prepared a PowerPoint</p> <p>14 for that presentation. I'm going to show</p> <p>15 you what I marked as Exhibit No. 5.</p> <p>16 MS. PARFITT: Thank you, Mark.</p> <p>17 (Document marked for</p> <p>18 identification as Plunkett Exhibit 5.)</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. Would you look at Exhibit No. 5 and</p> <p>21 tell me whether that is the PowerPoints you used</p> <p>22 for that presentation.</p> <p>23 A. Yes, it is.</p> <p>24 Q. And did you prepare this PowerPoint?</p>	<p style="text-align: right;">Page 69</p> <p>1 A. Yes.</p> <p>2 Q. Which of the studies that you list</p> <p>3 found what you call -- what you would call fibrous</p> <p>4 talc?</p> <p>5 A. I'd have to -- well, I have it here.</p> <p>6 The ones where it says an F. So all of these.</p> <p>7 The Pooley and Rowlands says F, Rohl, Paoletti,</p> <p>8 Blount and Anderson, and as well as the FDA Safety</p> <p>9 Alert document.</p> <p>10 Q. Would you turn to the next page with</p> <p>11 the heading "Fiber Toxicity and Carcinogenicity."</p> <p>12 A. Yes.</p> <p>13 Q. Was this a slide that you had used</p> <p>14 in litigation that you modified for this</p> <p>15 presentation?</p> <p>16 MS. PARFITT: Objection.</p> <p>17 THE WITNESS: No. It's a</p> <p>18 slide that I made based on my research in</p> <p>19 the litigation, yes, some of this, and</p> <p>20 then these -- but these slides were made</p> <p>21 for this purpose only.</p> <p>22 I have -- I don't believe I've</p> <p>23 used any -- well, the only thing that</p> <p>24 might be similar to something that's been</p>

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<p style="text-align: right;">Page 70</p> <p>1 shown at a trial would be the baby powder 2 bottle language. 3 BY MR. HEGARTY: 4 Q. Okay. Would you turn to the one -- 5 the slide that says "Fiber Toxicity and 6 Carcinogenesis." 7 Was this a slide that you had used 8 in litigation that you modified for this 9 presentation? 10 A. Yes. 11 Q. If you know. 12 A. Yeah. Yeah, I did. I mean, this 13 was something that I modified for the -- for the 14 purposes of here. You'll notice that some of this 15 is similar in terms of the -- I think I had this 16 slide looks more like a stepdown PowerPoint that 17 I've used at trial. 18 Q. Did you modify this PowerPoint slide 19 by adding "fibers" to it whereas before it said 20 "particles"? If you know. 21 A. Well, I certainly did put "fibers" 22 on here and particles and fibers. So, yes. I 23 mean, I would have modified it for that in that 24 way, yes.</p>	<p style="text-align: right;">Page 72</p> <p>1 A. And I sent that in after the 2 meeting, I believe, yes. 3 Q. Did you provide in advance of the 4 meeting the written statement to lawyers for the 5 plaintiffs in the talc litigation? 6 MS. PARFITT: Objection. 7 THE WITNESS: I don't think 8 so, no. I did give it to them, though, 9 with the slides after the meeting, yes. 10 BY MR. HEGARTY: 11 Q. Did you write the written statement 12 yourself? 13 A. Yes, I did. 14 Q. Did anyone assist you in writing 15 that written statement? 16 A. No, that I would have typed up 17 myself. 18 Q. Other than providing your written 19 statement after the meeting to FDA, have you had 20 any contact with FDA with regard to that meeting 21 in any respect? 22 A. No. Although I continue to look at 23 their website to look for what they are doing, and 24 I haven't seen them -- seen the FDA make public</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. If you turn over to slide 8, the 2 Bibliography in Support of Plunkett Slide 8. 3 Do you see that, Doctor? 4 A. I do. 5 Q. Do any of the studies listed on this 6 slide refer to fibrous talc? 7 A. So you asked me do they use the word 8 "fibrous talc" or do they use the word "talc 9 fibers" or are you asking me -- 10 Q. First of all my question would just 11 be "fibrous talc," those two words. 12 A. I don't know. I'd have to go back 13 and look. I mean, some of them I don't believe 14 would, but, I mean, some of the others may. 15 Q. With regard to the presentation that 16 you gave that day, did you read from a written 17 statement? 18 A. I had prepared a written statement, 19 but I had less time than I thought I would. So I 20 believe -- when I got up there, if I remember 21 correctly, I just talked from my slides, which is 22 what I typically do. But there was -- I did have 23 a written statement prepared, yes. 24 Q. Did you --</p>	<p style="text-align: right;">Page 73</p> <p>1 any additional work from their internal work that 2 I believe that they are doing based upon what they 3 do say on the website. 4 They say they're looking at certain 5 things, but I haven't -- I haven't seen anything 6 else made public. And I have not called the 7 Office of Cosmetics, for example, to ask when to 8 expect anything, no. 9 Q. Have you had any contact with FDA 10 about talc or asbestos other than this one 11 meeting? 12 MS. PARFITT: Objection. 13 Form. 14 THE WITNESS: I'm thinking 15 back to the SOT meeting in 2019, which 16 was the last in-face meeting. There 17 were, indeed, I did, indeed, talk to a 18 number of people at the meeting about 19 presentations on talc and fibers and 20 elongated mineral particles, and I can't 21 tell you if any of them were FDA or not. 22 I don't know. I'd have to go back and 23 look. 24 BY MR. HEGARTY:</p>

19 (Pages 70 to 73)



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<p style="text-align: right;">Page 74</p> <p>1 Q. What is this SOT meeting?</p> <p>2 A. Society of Toxicology. So it's an</p> <p>3 annual meeting held where 15,000 toxicologists get</p> <p>4 together and talk about fun things.</p> <p>5 Q. Do you recall if you did give or</p> <p>6 have discussions with anyone at that meeting about</p> <p>7 talc or asbestos?</p> <p>8 MS. PARFITT: Objection.</p> <p>9 Form.</p> <p>10 THE WITNESS: I did have</p> <p>11 conversations with different scientists</p> <p>12 because there were several posters at the</p> <p>13 meeting and so, yes, I did. I just --</p> <p>14 I'd have to go back and look at my</p> <p>15 program in order to tell you which ones I</p> <p>16 went to. And off the top of my head --</p> <p>17 that's been a couple years ago -- I don't</p> <p>18 recall the exact people who I spoke with.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. That was going to be my next</p> <p>21 question.</p> <p>22 Do you recall any of the scientists</p> <p>23 that you spoke with at that meeting?</p> <p>24 A. Anybody who had a presentation on</p>	<p style="text-align: right;">Page 76</p> <p>1 one, but it was triggered by the finding of</p> <p>2 asbestos in Johnson &amp; Johnson's baby powder.</p> <p>3 That's my understanding when you read what the</p> <p>4 meeting announcement was about.</p> <p>5 Q. And with regard to that February</p> <p>6 2020 meeting, you agree that you are not an expert</p> <p>7 on the testing of talc for asbestos, correct?</p> <p>8 A. No, I don't. I don't do that kind</p> <p>9 of testing myself. I have expertise in -- in</p> <p>10 interpreting data from types test, but I don't do</p> <p>11 those tests myself.</p> <p>12 Q. You're not an expert on the methods</p> <p>13 used by Dr. Longo or Dr. Rigler to test talc for</p> <p>14 asbestos, correct?</p> <p>15 MS. PARFITT: Mark, I would</p> <p>16 just object to the extent that those</p> <p>17 questions had previously been asked --</p> <p>18 MR. HEGARTY: Okay. All</p> <p>19 right.</p> <p>20 MS. PARFITT: -- in 2018 and</p> <p>21 '19 and '20 and '21. Thank you.</p> <p>22 BY MR. HEGARTY:</p> <p>23 Q. At the 2020 meeting, you didn't</p> <p>24 represent yourself as an expert on TEM, SEM, or</p>
<p style="text-align: right;">Page 75</p> <p>1 talc and asbestos or asbestos and talc or powders</p> <p>2 or elongated mineral particles, I made a point of</p> <p>3 going to those sessions if they didn't conflict.</p> <p>4 In other words, sometimes, unfortunately, the</p> <p>5 meeting is large and a poster session presenter is</p> <p>6 at the same time as a platform, and I may not get</p> <p>7 to speak to the person in person.</p> <p>8 Q. Do you have any planned</p> <p>9 presentations or meetings with FDA regarding talc</p> <p>10 or asbestos?</p> <p>11 MS. PARFITT: Objection.</p> <p>12 Form.</p> <p>13 THE WITNESS: As I sit here</p> <p>14 right now, no.</p> <p>15 BY MR. HEGARTY:</p> <p>16 Q. The focus of the FDA's meeting in</p> <p>17 February 2020 was on testing for asbestos,</p> <p>18 correct?</p> <p>19 A. Well, it was actually focused -- it</p> <p>20 was part of that, but the topic at the meeting was</p> <p>21 the toxicity of elongated mineral particles as</p> <p>22 well. There were presentations done by government</p> <p>23 scientists on that general issue. So particles</p> <p>24 and fibers, the mineral fibers, which asbestos is</p>	<p style="text-align: right;">Page 77</p> <p>1 XRD, correct?</p> <p>2 A. No. My comments were not directed</p> <p>3 to that specific topic, and there were others that</p> <p>4 did that. That is correct.</p> <p>5 Q. Since your MDL deposition in 2018,</p> <p>6 have you had any communications with Health Canada</p> <p>7 regarding any talcum powder products?</p> <p>8 A. I participated in a virtual press</p> <p>9 conference that Health Canada held after they</p> <p>10 released their -- their final risk assessment. So</p> <p>11 I didn't -- I didn't speak up orally at the</p> <p>12 meeting, but they were there and they were on the</p> <p>13 phone. I could have -- could have spoken up.</p> <p>14 They did -- they did ask questions. It was</p> <p>15 mainly, though, for the -- I believe it was to</p> <p>16 invite the press to ask questions.</p> <p>17 Q. Any other communication with Health</p> <p>18 Canada since your deposition in December 2018</p> <p>19 besides that one?</p> <p>20 A. Not on talc, no. I have interacted</p> <p>21 with Health Canada for some of my clients on other</p> <p>22 issues.</p> <p>23 Q. Have you communicated with any</p> <p>24 foreign regulatory authority about talcum powder</p>

20 (Pages 74 to 77)

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<p style="text-align: right;">Page 78</p> <p>1 since your December 2018 MDL deposition?</p> <p>2 A. Other than the meeting at FDA, no.</p> <p>3 Q. Have you spoken to any expert in</p> <p>4 these cases -- the MDL, the Swann case -- about</p> <p>5 their amended MDL reports or disclosures in the</p> <p>6 Swann case?</p> <p>7 A. No.</p> <p>8 Q. Have you spoken to any of the MDL</p> <p>9 plaintiffs or their family, that is, the</p> <p>10 plaintiffs identified for the bellwether cases in</p> <p>11 the MDL?</p> <p>12 A. No.</p> <p>13 Q. Do you know the names of the</p> <p>14 plaintiffs in the cases selected for the trials in</p> <p>15 the MDL?</p> <p>16 MS. PARFITT: Objection.</p> <p>17 Form.</p> <p>18 THE WITNESS: Off the top of</p> <p>19 my head, I don't. I may actually have</p> <p>20 heard those names before in filings --</p> <p>21 seen them in filings, but no, I can't</p> <p>22 tell you who they are.</p> <p>23 BY MR. HEGARTY:</p> <p>24 Q. Do you know where any of the</p>	<p style="text-align: right;">Page 80</p> <p>1 have that information.</p> <p>2 BY MR. HEGARTY:</p> <p>3 Q. Do you know whether any of the MDL</p> <p>4 plaintiffs saw any Johnson's Baby Powder or Shower</p> <p>5 to Shower advertisements prior to purchasing the</p> <p>6 product?</p> <p>7 MS. PARFITT: Same objection.</p> <p>8 THE WITNESS: Same answer. I</p> <p>9 couldn't answer those questions. I'm not</p> <p>10 familiar with any of their testimonies or</p> <p>11 their statements.</p> <p>12 BY MR. HEGARTY:</p> <p>13 Q. Do you know whether any of the MDL</p> <p>14 plaintiffs had a BMI over 30 or were considered</p> <p>15 overweight?</p> <p>16 MS. PARFITT: Mr. Hegarty, to</p> <p>17 the extent all these do go to</p> <p>18 case-specific issues, and I know we have</p> <p>19 limited time. So I'm actually trying to</p> <p>20 help you on that.</p> <p>21 MR. HEGARTY: Right.</p> <p>22 MS. PARFITT: She does not</p> <p>23 have -- so I'll make a representation.</p> <p>24 She's here as a general -- a general</p>
<p style="text-align: right;">Page 79</p> <p>1 named -- any of the plaintiffs named in the -- let</p> <p>2 me strike that.</p> <p>3 Do you know the names of any of the</p> <p>4 -- strike that.</p> <p>5 As to any of the plaintiffs named in</p> <p>6 the MDL bellwether cases, do you know where they</p> <p>7 lived?</p> <p>8 MS. PARFITT: Objection.</p> <p>9 Dr. Plunkett is here as a general expert</p> <p>10 witness and would not have any</p> <p>11 familiarity with the specifics of the</p> <p>12 cases.</p> <p>13 MR. HEGARTY: I know. I just</p> <p>14 need that -- I just need that from her.</p> <p>15 THE WITNESS: No, I'm not a</p> <p>16 case-specific expert. I don't know their</p> <p>17 names or where they live, no.</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. Do you have any knowledge of each of</p> <p>20 the plaintiffs use of Baby Powder or Shower to</p> <p>21 Shower?</p> <p>22 MS. PARFITT: Same objection.</p> <p>23 THE WITNESS: Same answer.</p> <p>24 No, I'm not case-specific. So I do not</p>	<p style="text-align: right;">Page 81</p> <p>1 expert witness and has no information</p> <p>2 about the case-specific. So to some</p> <p>3 extent you may be using up your time for</p> <p>4 information she doesn't have.</p> <p>5 MR. HEGARTY: Well, and I can</p> <p>6 explain. I think there can be arguments</p> <p>7 made about whether certain testimony that</p> <p>8 might relate to advertisements generally</p> <p>9 as it pertains to these plaintiffs may</p> <p>10 become relevant where you might argue</p> <p>11 that --</p> <p>12 MS. PARFITT: Sure.</p> <p>13 MR. HEGARTY: -- testimony</p> <p>14 about an ad that the plaintiff didn't see</p> <p>15 is relevant. So -- and Dr. Plunkett does</p> <p>16 provide testimony about advertisements.</p> <p>17 So that's where I'm coming from.</p> <p>18 MS. PARFITT: Sure, but I am</p> <p>19 just trying to make it easier for us for</p> <p>20 the four hours that you have --</p> <p>21 MR. HEGARTY: Right.</p> <p>22 MS. PARFITT: -- that she has</p> <p>23 been provided no information with regard</p> <p>24 to any of the MDL witnesses or bellwether</p>

21 (Pages 78 to 81)



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<p style="text-align: right;">Page 82</p> <p>1 cases. Absolutely none.</p> <p>2 BY MR. HEGARTY:</p> <p>3 Q. So is it correct, Dr. Plunkett, that</p> <p>4 you've been provided no information about any of</p> <p>5 the MDL plaintiffs; is that correct?</p> <p>6 A. That's correct.</p> <p>7 Q. Is it also correct that you have not</p> <p>8 been provided any information about Ms. Swann in</p> <p>9 the Swann case?</p> <p>10 A. That's correct.</p> <p>11 Q. That would include anything about</p> <p>12 their demographics or their physical health or</p> <p>13 even their race?</p> <p>14 A. No. The only thing I know -- the</p> <p>15 only thing I am aware of by their name whether</p> <p>16 they're women (laugh), and obviously the one</p> <p>17 question I always ask attorneys when I start</p> <p>18 litigation is, these are all cases about ovarian</p> <p>19 cancer? Yes. Yes, that's what I know, but I</p> <p>20 don't know the specific women's cancer or when it</p> <p>21 occurred or any of those kinds of things.</p> <p>22 Q. Do you know of any testing that was</p> <p>23 done on either their tissues or any of the product</p> <p>24 that they used?</p>	<p style="text-align: right;">Page 84</p> <p>1 which we will go ahead and mark as --</p> <p>2 MS. PARFITT: And for ease,</p> <p>3 Mark, we have a copy of it in front of</p> <p>4 her.</p> <p>5 THE WITNESS: You want to mark</p> <p>6 this?</p> <p>7 MR. HEGARTY: Okay. I'm</p> <p>8 trying to get rid of some of the copies</p> <p>9 that I brought.</p> <p>10 MS. PARFITT: That's okay. We</p> <p>11 can hold on to them.</p> <p>12 MR. HEGARTY: I'm going to</p> <p>13 mark as Exhibit No. 6 a copy of your</p> <p>14 June 30, 2021 MDL report, amended MDL</p> <p>15 report.</p> <p>16 (Document marked for</p> <p>17 identification as Plunkett Exhibit 6.)</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. Would you just take a quick look at</p> <p>20 that and tell me whether that does appear to be</p> <p>21 your June 30, 2021 amended MDL report?</p> <p>22 A. Yes, it is.</p> <p>23 Q. And do you have a copy of that</p> <p>24 report in front of you?</p>
<p style="text-align: right;">Page 83</p> <p>1 MS. PARFITT: Objection.</p> <p>2 THE WITNESS: In the MDL?</p> <p>3 No, I do not.</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. In the MDL.</p> <p>6 And I was going to ask you</p> <p>7 particularly about any testing that Dr. Godleski</p> <p>8 has done.</p> <p>9 Are you familiar -- are you aware of</p> <p>10 any of the testing he has done as to the MDL</p> <p>11 plaintiffs?</p> <p>12 MS. PARFITT: Same objection.</p> <p>13 THE WITNESS: No, I am not.</p> <p>14 I am not aware.</p> <p>15 BY MR. HEGARTY:</p> <p>16 Q. Okay. Same question as to</p> <p>17 Ms. Swann.</p> <p>18 Do you know of any testing that</p> <p>19 Dr. Godleski did as to Ms. Swann's tissues?</p> <p>20 MS. PARFITT: Same objection.</p> <p>21 THE WITNESS: Same answer.</p> <p>22 No, I do not.</p> <p>23 BY MR. HEGARTY:</p> <p>24 Q. With regard to your MDL report,</p>	<p style="text-align: right;">Page 85</p> <p>1 A. I do. I don't know that I have all</p> <p>2 the appendices, though. You have all the</p> <p>3 appendices.</p> <p>4 Q. Did you make any notations or</p> <p>5 writing on the copy that's sitting in front of</p> <p>6 you?</p> <p>7 A. No, I do not.</p> <p>8 Q. If I looked through that, I wouldn't</p> <p>9 see anything different than what I marked as</p> <p>10 Exhibit No. 6?</p> <p>11 A. Other than it does not have the</p> <p>12 appendices pages. I have the title page</p> <p>13 "Appendix C," but I didn't bother to kill the tree</p> <p>14 (laugh) to print out all those pages, but yes.</p> <p>15 Q. And with regard to the -- do you</p> <p>16 have anything else in the notebook in front of you</p> <p>17 besides the amended MDL report?</p> <p>18 A. I have the original MDL report.</p> <p>19 That one actually does have appendices with it. I</p> <p>20 have the Health Canada final screening assessment,</p> <p>21 and I have the Taher paper that's referred to,</p> <p>22 which actually is not new since, but certainly I</p> <p>23 brought that because it is discussed within the</p> <p>24 Health Canada assessment.</p>

22 (Pages 82 to 85)

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<p style="text-align: right;">Page 86</p> <p>1 MR. HEGARTY: You mentioned 2 your prior MDL report, and I'm going to 3 mark as Exhibit No. 7 your November 16, 4 2018 MDL report. 5 (Document marked for 6 identification as Plunkett Exhibit 7.) 7 BY MR. HEGARTY: 8 Q. Is that the initial MDL report that 9 you prepared for the MDL? 10 A. Yes, that's correct. 11 MR. HEGARTY: I'm going to 12 next mark as Exhibit No. 8 a supplemental 13 expert report dated August 29, 2018. 14 (Document marked for 15 identification as Plunkett Exhibit 8.) 16 BY MR. HEGARTY: 17 Q. Can you tell me what that document 18 is? 19 A. So this was a report I repaired -- 20 prepared before the MDL report, but after my 21 initial report in litigation, which I believe 22 was -- 23 MS. PARFITT: Thank you, Mark. 24 THE WITNESS: -- in 2016 based</p>	<p style="text-align: right;">Page 88</p> <p>1 PubMed documents. 2 Q. Do you recall what search terms you 3 used in the PubMed search? 4 A. Sure. PubMed I was just very 5 general because I do those -- those searches about 6 every four or five months. I did just did "talc" 7 and then I just looked -- I organize it 8 chronologically and I just looked at things since 9 the last time I had -- I had done -- done research 10 or done a search. 11 Q. When you say "looked at things," how 12 do you go about looking at this, the search 13 results that you get from that broad of a search? 14 A. So I start -- I do it on my 15 computer. I start with the titles and the 16 authors. I look at what's there and then I click 17 to the abstract, if there is one available. The 18 good thing since the pandemic is almost every 19 journal provides almost every article free now. 20 So in the -- in the research that I 21 did before the amended MDL report, in addition to 22 the abstract, I usually almost always able to see 23 the full article. 24 Q. Is the time that you spent doing</p>
<p style="text-align: right;">Page 87</p> <p>1 on having -- having additional documents 2 that were reviewed. Well, some of it was 3 new discovery and then some are new 4 things that I reviewed and relied upon, 5 and then some additional research that I 6 had done since the original report 7 looking historically back in time at 8 notice and what was known to the company. 9 BY MR. HEGARTY: 10 Q. Were you asked to do anything 11 different in preparing your amended MDL report 12 than you had been asked to do in preparing your 13 original MDL report? 14 A. No. 15 Q. Did you do any medical or scientific 16 literature research for your amended report? 17 A. Yes. 18 Q. What databases did you search, if 19 any? 20 A. I searched through the PubMed 21 website and then I also did -- I think I did -- I 22 may have even done a Google -- just a Google query 23 on talc and ovarian cancer to see if there was 24 anything that didn't show up on the -- in the</p>	<p style="text-align: right;">Page 89</p> <p>1 that search reflected in the invoices that we 2 marked? 3 A. Yes. The time for review of 4 documents before I actually prepared the report, 5 but then during that month I was preparing the 6 report, that would have been also looking again at 7 the -- at it to see if there's anything new in the 8 literature that showed up in June of 2021. 9 Q. Did plaintiff's counsel provide you 10 with any literature or other materials that you 11 reviewed for your 2021 amended MDL report? 12 A. Not literature, but let me -- which 13 one is it? Number 6? 14 Q. Number 6. 15 A. Yeah. I believe there was some new 16 deposition testimony. 17 MR. HEGARTY: And I have a 18 copy. 19 MS. PARFITT: Thanks, Mark. 20 THE WITNESS: Let's see. So 21 if you go to page -- pages 67 through 69 22 in the Appendix C where there's 23 deposition testimony. If there's 24 deposition -- there's some depositions</p>

23 (Pages 86 to 89)

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<p style="text-align: right;">Page 90</p> <p>1 here that occurred after my original MDL 2 report that would have been provided 3 through counsel. Actually, all of these 4 documents on here always were provided 5 through counsel. 6 BY MR. HEGARTY: 7 Q. When you say "all the documents on 8 here," what do you mean? 9 A. I mean that I have a transcript. So 10 anything on the transcript page would have been 11 provided through counsel, and I know that there 12 are documents on here that I saw -- well, for 13 example, there was one -- there were two 14 depositions of Steven Mann taken in April of 2021. 15 So that's something that I didn't have, obviously, 16 in 2018, right? 17 And then there's also, even though 18 there's a 2019 Alex Gorsky deposition, there's 19 also deposition and exhibits from trial testimony 20 of Alex Gorsky in a couple of trials. So towards 21 the end of here, there's a number of things that 22 are since my MDL report. 23 Q. Did you request any specific 24 depositions or were those depositions just</p>	<p style="text-align: right;">Page 92</p> <p>1 certainly I segregate. So, for example, articles, 2 when I add them to my report, those are ones that 3 I've given weight to in terms I believe they're -- 4 they're relevant to the opinions I've expressed in 5 the case. 6 But you're asking me for -- I mean, 7 my original MDL, the deposition, we spent a lot of 8 time with Ms. Branscome I believe her name was -- 9 Q. Correct. 10 A. -- going through this issue. 11 There's nothing different today that I did that is 12 different from what I did then. 13 Q. And that applies to both assessing 14 the strengths and weaknesses and assigning a 15 weight to the articles; is that correct? 16 A. That's correct. 17 Q. And did you do either of those in 18 some written format in some other document besides 19 in your MDL report or your amended MDL report? 20 A. No. 21 Q. Did you perform any search of 22 company documents for your amended report? 23 A. Yes, I did. I requested some 24 searches be done specifically on a couple of</p>
<p style="text-align: right;">Page 91</p> <p>1 provided to you by counsel? 2 A. I requested any new depositions. 3 Actually, it's a standing request. If there's any 4 new depositions in the areas I typically cover, 5 for example, or someone who has given a deposition 6 before that now gives a second deposition, another 7 deposition, I ask for that. 8 I also, for example, after trials 9 that I've been at, if I know a certain person has 10 testified and it covers, overlaps with my area, I 11 may ask for that. 12 Q. With regard to the new literature 13 that you identified, did you assess the strengths 14 and weaknesses of each article? 15 A. Same -- same way I always do, yes. 16 I applied my -- my -- the same method I would to 17 the new articles just as I did to the old 18 articles. 19 Q. And as to the new articles that you 20 cited in your amended MDL report, did you assign a 21 weight as it relates to your risk assessment to 22 those new articles? 23 A. In the same way that I've done it 24 before. It's not a written document, but</p>	<p style="text-align: right;">Page 93</p> <p>1 issues that I knew there had been additional trial 2 testimony about or things I had heard about in 3 transcripts or read in transcripts. 4 So when I asked for exhibits to 5 trials or depositions, I asked for additional 6 searches to be done around, for example, the 7 issues of asbestos in talc, some additional 8 information or additional data. Even documents 9 that actually may have been in the original 10 discovery ones that I had not focused on before. 11 So I spent a little more time 12 focusing on some of that just because I had seen 13 that come up, for example, in the Forrest trial 14 that I participated in and some other -- other 15 depositions I participated in. 16 Q. Is the document database, that is 17 the document database of produced documents by 18 Johnson &amp; Johnson, something that you have access 19 to? 20 A. I do and I will do searches, but in 21 the case of this most recent searches, I asked for 22 others to help me. And I say "others." I asked 23 the attorneys to do searches for these kinds of 24 documents.</p>

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<p style="text-align: right;">Page 94</p> <p>1 Q. So with regard to your amended MDL 2 report as it relates to searches across company 3 documents, you asked the lawyers to do those 4 searches. 5 You did not do them personally? 6 MS. PARFITT: Objection. 7 THE WITNESS: Well, I was -- 8 MS. PARFITT: Misstates her 9 testimony. 10 THE WITNESS: So I gave 11 directions to the attorneys on what to 12 look for in terms of keywords as in 13 topics, but no, I did not physically do. 14 But what I do do, though, is 15 I'm given a Dropbox with lots of 16 documents in it, and then I go through 17 those myself and determine which ones I 18 think are relevant to add to my reliance 19 list. 20 For example, if there are 21 things that show up on my reliance list 22 as new, those are all things I've said 23 that I believe were ones that I would 24 like to have added to my Appendix C.</p>	<p style="text-align: right;">Page 96</p> <p>1 MR. HEGARTY: Correct. 2 BY MR. HEGARTY: 3 Q. This would be in preparing your 4 amended report. 5 A. Sure. Yes, I was looking for 6 documents that discussed asbestos in talc powder. 7 Talc powder. I also was looking for documents 8 that talked about corn starch, additional corn 9 starch documents. What the company was doing in 10 terms of development of corn starch. 11 And then I think I also searched for 12 some names of individuals that I had seen given 13 deposition testimony. I think we did -- I did 14 some additional looking for documents from Steve 15 Mann, from Steve Mann based on some of the 16 testimony he gave more recently but also in the 17 past. He's been on different e-mails documents 18 that I've relied upon and presented at trial. 19 I think we searched for -- I think I 20 searched for Kathleen Wille again. I think I 21 searched also for -- I'm trying to think who else 22 was in there. Mann. Wille. 23 Let me look again on this. I might 24 be able to tell you by looking at it.</p>
<p style="text-align: right;">Page 95</p> <p>1 BY MR. HEGARTY: 2 Q. As far as the company documents that 3 you have access to, is this via a hard drive? 4 A. It's computer. I mean, there's a -- 5 the attorneys have a large database that I've been 6 provided access to, and I can do that myself, 7 okay? So it's all electronic, but then I can 8 print out documents if I want, obviously, download 9 and print out. 10 Q. Do you know whether this database 11 that you're provided access to has been updated as 12 new documents have been produced? 13 A. It's my understanding, yes, and 14 that's one of the reasons why every once in a 15 while I get a communication from the attorneys 16 that there's been new -- new documents that have 17 been provided through -- from Johnson &amp; Johnson to 18 plaintiff's counsel. 19 Q. Do you recall the search terms that 20 you provided to counsel for plaintiffs to have to 21 use to search across the company document 22 databases? 23 MS. PARFITT: And this would 24 be between the '18 and the '21 report.</p>	<p style="text-align: right;">Page 97</p> <p>1 Those are the two I can recall. I 2 mean, it's possible I also searched nettle -- 3 Nettesheim but... 4 Q. When you get the results back from 5 the document searches, how do you go about 6 reviewing those documents? 7 A. So they're provided to -- the 8 documents themselves are put into a Dropbox. So 9 where I can -- where I don't have to go physically 10 to their offices. They share them electronically, 11 and then I review them. So they're put in just 12 individual folders for me, Dr. Plunkett's request 13 or whatever and the date. 14 And then I go through and open them, 15 read them, determine if there's ones that I 16 believe are ones I would, for example, want to 17 cite in the amended report. Ones that I think 18 need to be added to Appendix C. Or there may be 19 some that I feel are not really relevant to the 20 opinions I'm expressing. So they may not 21 necessarily go in, or they may. You know, it just 22 depends. 23 I may just say, dump them all in. 24 Sometimes I don't, though. I will say, just go</p>

25 (Pages 94 to 97)

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<p style="text-align: right;">Page 98</p> <p>1 for this subsection of documents because those 2 search terms weren't helpful. You know, sometimes 3 I'll give a search term and what I get back is not 4 helpful in terms of the kinds of testimony or the 5 kinds of opinions that I've expressed in the case. 6 Q. Do you read the entirety of the -- 7 or did you read the entirety of the documents that 8 were provided to you from this, the searches? 9 MS. PARFITT: Objection. 10 Form. 11 THE WITNESS: In most of them 12 I do. Some of them I don't. And 13 sometimes you can tell from the first 14 page. If it's a 40-page document and 15 it's something that just isn't really 16 relevant to the question I'm asking, then 17 I may not read all 40 pages, but I 18 typically do. 19 Majority of the documents that 20 I reviewed and added to the amended 21 expert report were -- were shorter than 22 that, though. So I would have looked or 23 skimmed through quickly the entire 24 document.</p>	<p style="text-align: right;">Page 100</p> <p>1 I use the term "e.g.," for example, that means 2 it's not every document that I reviewed that's 3 supportive, but those are kind of the ones I think 4 really make the point or very -- of the -- of the 5 statement I am -- I am making in that sentence 6 where I'm citing to it. 7 Q. Since your MDL report, initial MDL 8 report, and deposition in 2018, have you done any 9 additional work on heavy metals and ovarian cancer 10 risk? 11 A. I have not written any additional 12 reports, other than what you have, but I certainly 13 have looked, for example, at some of the 14 literature that might have come up. Yes, that's 15 possible I have looked at that. I certainly did 16 -- I also did at one point -- and I want to say it 17 was in response to questions asked at a deposition 18 since my MDL deposition. One of the state cases. 19 I believe I did go and look at some 20 of the IARC documents for the individual metals to 21 see. Because I was asked questions somewhere 22 about, well, can you point me to where it says 23 ovarian cancer in that document? So I did go on 24 some of those and look and to see what was there.</p>
<p style="text-align: right;">Page 99</p> <p>1 BY MR. HEGARTY: 2 Q. And in your amended expert report, 3 you've identified some new company documents and 4 you've also included some new company documents in 5 your list of materials considered. 6 What is the distinction between the 7 documents cited in the report versus the documents 8 in the list of materials considered? 9 A. So the ones cited in the report are 10 being cited for a specific statement I'm making. 11 I believe that document is supportive of that 12 specific statement. There are also documents 13 that -- that I believe might be ones that would be 14 potentially used at trial. I mean, some of those 15 you may recognize, the ones we have used in direct 16 testimony at trial before. 17 And then the ones considered may be 18 ones that I may decide to use at trial, for 19 example, may ask to be added to the list, or they 20 may just be another. I have 10 documents that 21 talk about the same thing. So I cite one or two, 22 but not all of them. 23 You'll notice -- I think I've said 24 this to you before -- when I cite to documents, if</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. Since your MDL deposition December 2 2018, have you done any additional work on 3 fragrances and ovarian cancer risk? 4 A. In the -- I need to ask a question. 5 Q. Sure. 6 A. I need to look. In the 2018 report, 7 the list of fragrances I had was long. I do -- 8 yes, there has been since that time a shorter 9 list, I believe, that has shown up on the website 10 where they've cut -- when I say "they," the 11 company has gone to -- gone to the work, I 12 believe, or they've -- they've started taking some 13 things out of their fragrance, and they 14 reformulated their fragrance. 15 Now, I don't have confidential 16 documents that tells me that's the only thing in 17 there, but that list is now much shorter than the 18 list that I relied upon for my -- my MDL report. 19 So that research I have done. I have gone to see 20 what has been said, and I am aware that today 21 they've changed their fragrance constituents as 22 far as what's in the fragrance. 23 Q. Have you done anything specific to 24 give your opinions as reflected in your June 2021</p>



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<p>1 amended MDL report that's not reflected by the 2 report itself? 3 A. I don't recall. No, I don't -- I 4 don't believe so. Because I believe that's been 5 -- if that isn't -- that isn't -- if that issue on 6 the less fragrances wasn't discussed in the 7 report, I would say to you I know I discussed -- 8 we discussed it at a deposition since the MDL 9 report, but I don't recall if I had that 10 discussion. I'd have to look. 11 Q. I guess my question is: Are there 12 any opinions or other work -- 13 A. Oh. 14 Q. -- that you have that you intend to 15 offer in the MDL that's not -- that are not 16 contained in your amended MDL report? 17 A. No. I have attempted to give you -- 18 that's why I'm here today. To tell you that this 19 is the opinions that I would be prepared to 20 express in the MDL at this point in time based 21 upon what is in the report or any of the documents 22 that are, obviously, in my appendices. 23 Q. So is it a correct statement that 24 your amended MDL report contains all of your</p>	<p>1 restate that. 2 To the extent you intend to testify 3 about any company witness testimony, this would be 4 set out in your amended MDL report or your prior 5 deposition testimony, correct? 6 MS. PARFITT: Or trial 7 testimony. 8 BY MR. HEGARTY: 9 Q. Or trial testimony? 10 A. Or trial testimony. Yes, that's 11 correct. 12 Q. Is the same true for internal 13 company documents? To the extent you intend to 14 testify about any internal company document, this 15 would be set out in your amended MDL report or 16 your deposition or trial testimony? 17 A. Yes. As we sit here today, that is 18 correct. 19 MS. PARFITT: Mark, could we 20 take a short bio break? 21 MR. HEGARTY: Yes. 22 MS. PARFITT: Okay. 23 MR. HEGARTY: Yes. Let's go 24 ahead and take that break.</p>
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<p>1 current opinions and reliance materials? 2 A. Yes, that's true. 3 Q. To the extent you -- 4 A. Well, does it cite to? With the -- 5 with the caveat, I always say that also anything 6 that I've said or stated within testimony that I 7 believe is incorporated into this, but if it's 8 not, I should point that out. Because I don't 9 know that I list that as a separate appendix, but 10 yes. 11 Q. You're talking about current 12 opinions and reliance materials that you've 13 provided during your deposition testimony? 14 A. Or trial testimony. 15 Q. Or trial testimony? 16 A. Yes, that's correct. 17 Q. Between the deposition testimony, 18 trial testimony, and your amended MDL report, that 19 should contain all of your current opinions and 20 reliance materials? 21 A. Yes, that's correct. 22 Q. To the extent you intend to testify 23 about any company witness testimony that's 24 identified in your report, this would be -- let me</p>	<p>1 MS. PARFITT: Is it a good 2 place? 3 MR. HEGARTY: Yes, that's 4 okay. 5 (Recess: 10:35 a.m. - 6 10:50 a.m.) 7 MR. HEGARTY: We're back on 8 the record. 9 BY MR. HEGARTY: 10 Q. Dr. Plunkett, we've been talking 11 about your June 2021 amended MDL report, and in 12 that report, did you set out any analysis that's 13 specific to the subtypes of ovarian cancer for the 14 plaintiffs in this case -- in these cases? 15 A. No. 16 Q. Did you do any type of risk 17 assessment or analysis by subtype based on the 18 types of cancers that the MDL plaintiffs have? 19 MS. PARFITT: Objection. 20 Form. 21 THE WITNESS: No. I'm not 22 case-specific. 23 BY MR. HEGARTY: 24 Q. Do you understand that in the MDL</p>

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<p>1 there are two Johnson &amp; Johnson companies in the</p> <p>2 case: Johnson &amp; Johnson Consumer, Inc. and Johnson</p> <p>3 &amp; Johnson?</p> <p>4 A. Yes, I believe that's true. I've</p> <p>5 seen that on the pleadings, yes.</p> <p>6 Q. Does your amended report set out any</p> <p>7 analysis specific to each defendant?</p> <p>8 A. No. Some documents may relate only</p> <p>9 to one entity in terms of the way it's listed, but</p> <p>10 to me it's all Johnson &amp; Johnson generally.</p> <p>11 Everything applies to both, in my mind, in terms</p> <p>12 of my opinions.</p> <p>13 Q. Does your amended report set out an</p> <p>14 analysis where you address separately Johnson's</p> <p>15 Baby Powder and Shower to Shower?</p> <p>16 A. No, does not.</p> <p>17 Q. Your report at the end includes</p> <p>18 references to other companies' labels.</p> <p>19 Do you recall that?</p> <p>20 A. Yes.</p> <p>21 Q. Since your MDL deposition in</p> <p>22 December of 2018, have you done any analysis of</p> <p>23 any other company's knowledge and reason for</p> <p>24 including warnings on their talcum powder product?</p>	<p>1 follow along with.</p> <p>2 (Document marked for</p> <p>3 identification as Plunkett Exhibit 9.)</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. With regard to the Federal Register</p> <p>6 document listed there, do you recall if there's</p> <p>7 anything in that Federal Register document that</p> <p>8 you rely upon for your opinions in your MDL report</p> <p>9 or amended MDL report?</p> <p>10 A. Why. It's part of -- it has been</p> <p>11 part of my reliance materials for a long time. I</p> <p>12 need to see if I cite to this specific one. You</p> <p>13 want me to look and see?</p> <p>14 Q. Let me ask you about that.</p> <p>15 The Federal Register document is 300</p> <p>16 pages, but within that there's a reference to</p> <p>17 antiperspirant drug products for over-the-counter</p> <p>18 human use.</p> <p>19 Is that the part of that document to</p> <p>20 which you are referring to?</p> <p>21 A. I'd have to -- that may very well</p> <p>22 be, but I'd have to pull that one out to tell you</p> <p>23 that for sure.</p> <p>24 Q. We'll see if I have time and I'll</p>
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<p>1 A. No, I have not because I would have</p> <p>2 done that based upon having access to their</p> <p>3 internal company documents or conversations with</p> <p>4 individuals. So, no, I have not done that.</p> <p>5 Q. You have not since your MDL</p> <p>6 deposition looked at any internal company</p> <p>7 documents or spoken to anyone at these companies</p> <p>8 who put ovarian cancer warnings on their talcum</p> <p>9 powder products?</p> <p>10 A. No, I have not.</p> <p>11 Q. You have testified several times</p> <p>12 that you're not a causation witness.</p> <p>13 With regard to your amended MDL</p> <p>14 report, is that still the case?</p> <p>15 A. Yes, I'm not doing general</p> <p>16 causation.</p> <p>17 MR. HEGARTY: We were provided</p> <p>18 prior to your deposition some materials</p> <p>19 that you have reviewed, and we've looked</p> <p>20 at several of those so far.</p> <p>21 And I want to mark as Exhibit</p> <p>22 No. 9 the printout of a Dropbox we were</p> <p>23 provided which contains the first page of</p> <p>24 the documents that, hopefully, we can</p>	<p>1 come back to that.</p> <p>2 You make several references --</p> <p>3 strike that.</p> <p>4 Within Exhibit No. 9, there are</p> <p>5 several references to cosmetovigilance.</p> <p>6 Is there anything in those documents</p> <p>7 that you rely upon for your amended MDL report?</p> <p>8 Because I didn't see anything cited to those in</p> <p>9 your amended MDL report.</p> <p>10 A. I don't have a specific reference to</p> <p>11 these documents, but they are relevant to my</p> <p>12 opinions related to the responsibility of a</p> <p>13 company.</p> <p>14 So if you read these documents, they</p> <p>15 talk about what companies can do in terms of</p> <p>16 setting up systems and procedures within the</p> <p>17 company to look for adverse events and safety</p> <p>18 concerns that arise after the drug has been -- I'm</p> <p>19 sorry, not the drug -- after the product has</p> <p>20 entered the marketplace.</p> <p>21 MR. HEGARTY: I'll mark as</p> <p>22 Exhibit No. 10 the references, the</p> <p>23 document that says "All References and</p> <p>24 Materials." It's the first row to the</p>



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<p style="text-align: right;">Page 110</p> <p>1 far right. 2 (Document marked for 3 identification as Plunkett Exhibit 10.) 4 THE WITNESS: Uh-huh. 5 BY MR. HEGARTY: 6 Q. Can you tell me what Exhibit No. 10 7 is or what it represents? 8 A. Yeah, I've seen that. 9 MS. PARFITT: The far right. 10 THE WITNESS: Yeah. Yeah. 11 Yeah. Yeah. 12 So can you -- can you provide 13 me with the notice of deposition? That 14 might make it easier because these -- 15 that's what these are responsive to, and 16 I might be able to tell you by looking at 17 what you asked for. Do you understand? 18 BY MR. HEGARTY: 19 Q. I do. 20 A. Because -- 21 Q. Sitting here -- but looking at the 22 document, you can't tell what it is? What it 23 represents? 24 A. These are clearly internal company</p>	<p style="text-align: right;">Page 112</p> <p>1 what that is. Things that I have looked at more 2 recently. 3 Q. I'll mark -- 4 A. Because I continue to work on this 5 because I have other cases coming up and... 6 MR. HEGARTY: I'll mark next 7 as Exhibit No. 12 a copy of the Boorman 8 article, which is not new, but it is 9 included on the materials that were 10 provided to us for purposes of this 11 deposition. 12 (Document marked for 13 identification as Plunkett Exhibit 12.) 14 BY MR. HEGARTY: 15 Q. Is there a reason that we were 16 provided the Boorman article versus other articles 17 that you referred to before or that are dated well 18 before your MDL report? 19 A. No. This -- this is -- as far as I 20 know, this has been in my materials for a long 21 time. So... 22 MS. PARFITT: And, Mark, if I 23 can just, maybe it will be helpful. 24 MR. HEGARTY: Sure.</p>
<p style="text-align: right;">Page 111</p> <p>1 documents that are within my -- within my reliance 2 materials. That I can tell by just general 3 looking at what they are. But in order to tell 4 you which -- what it's responsive to, it's 5 responsive to something you asked for. So that's 6 why I said if you show me -- 7 Q. Okay. 8 A. -- your notice of deposition 9 subpoena, I can maybe answer that more fully. 10 Q. Okay. Maybe we'll come back when I 11 have some time. 12 A. Okay. 13 MR. HEGARTY: There's another 14 document I want to show you that was 15 provided that I'll mark as Exhibit 16 No. 11. 17 (Document marked for 18 identification as Plunkett Exhibit 11.) 19 BY MR. HEGARTY: 20 Q. Can you tell me what that document 21 is? 22 A. Yes. So this is a document looking 23 at things that I have considered more recently. 24 So up till today essentially, right? So that's</p>	<p style="text-align: right;">Page 113</p> <p>1 MS. PARFITT: What happened 2 is, because there were other reliance 3 lists, we tried to cross-check in the 4 MDL, and it may have been that for state 5 court cases or even back as early as the 6 original report, there were documents 7 that were provided to you and we 8 duplicated them out of an abundance of 9 caution. 10 MR. HEGARTY: Okay. 11 MS. PARFITT: So feel free to 12 inquire about any particular one, but 13 that's why you see some that are, 14 frankly, redundant that had been provided 15 to you earlier. 16 BY MR. HEGARTY: 17 Q. If you would turn to the second to 18 the last page of Exhibit No. 9, there is a 19 document in the lower left-hand corner P1851, 20 which is "Johnson's Baby Talcum Powder: A 21 Comprehensive Review, March 17, 2020." 22 Do you recall that document? 23 A. Yes. 24 Q. Have you read that document?</p>

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<p style="text-align: right;">Page 114</p> <p>1 A. I have. Now I have, yes.</p> <p>2 Q. When did you first read it?</p> <p>3 A. First read it as it was -- as with</p> <p>4 respect to trial testimony in the last case by</p> <p>5 Dr. Kuffner. So it was made -- I was made aware</p> <p>6 of that document.</p> <p>7 Q. Have you done an assessment of any</p> <p>8 strengths and weaknesses about that document?</p> <p>9 A. I formed some opinions about</p> <p>10 strengths and weaknesses, yes, after reading his</p> <p>11 trial testimony and that document.</p> <p>12 Q. What are those opinions?</p> <p>13 A. So consistent with what I have, I</p> <p>14 think, already testified in the past, that</p> <p>15 particular document and their review is, again, in</p> <p>16 my opinion, not consistent with what the weight of</p> <p>17 the evidence says. So I disagree with the</p> <p>18 conclusions drawn. They're certainly -- many of</p> <p>19 the studies and some of the information, they're</p> <p>20 some of the same ones that I have reviewed.</p> <p>21 I also in Dr. Kuffner's trial</p> <p>22 testimony where he discusses his review, I</p> <p>23 disagree with some of the statements he makes</p> <p>24 about what individual pieces of evidence may or</p>	<p style="text-align: right;">Page 116</p> <p>1 point or topical areas of opinions as it relates</p> <p>2 to the comprehensive review document, first of</p> <p>3 all, and then second as it relates to</p> <p>4 Dr. Kuffner's testimony?</p> <p>5 A. I think I've told you the general --</p> <p>6 my general issues. I mean, if you want to go line</p> <p>7 by line through it, we can talk about it.</p> <p>8 Q. Probably don't have time to do that.</p> <p>9 A. Yeah. I'm sorry.</p> <p>10 Q. So are you able to just give me the</p> <p>11 subject areas of opinions that we have not already</p> <p>12 covered.</p> <p>13 A. So I disagree with some of the</p> <p>14 discussion in there when you go to the sections</p> <p>15 where they talk about the weight of the evidence</p> <p>16 from the EPI studies, the weight of the evidence</p> <p>17 from some of the animal work. I mean, if you've</p> <p>18 read my report, you know that I don't agree with</p> <p>19 some of the conclusions that are drawn in that --</p> <p>20 in that review. Absolutely.</p> <p>21 The issues related -- I think he</p> <p>22 covers -- covers migration, for example. We have</p> <p>23 a disagreement about that as well.</p> <p>24 And then on Dr. Kuffner's trial</p>
<p style="text-align: right;">Page 115</p> <p>1 may not mean.</p> <p>2 I mean, if you want -- it's going to</p> <p>3 be a long discussion, but if you want to go</p> <p>4 through. I mean, essentially I disagree with how</p> <p>5 he -- how he describes -- how he looks at the</p> <p>6 results of the Canadian final safety assessment</p> <p>7 versus what other -- other assessments may have</p> <p>8 been done.</p> <p>9 The Health Canada assessment is a</p> <p>10 much more comprehensive, in-depth assessment</p> <p>11 across the literature than, for example, anything</p> <p>12 that you find on the NCI website or you find even</p> <p>13 done by the CIR when they did their review. And</p> <p>14 those are opinions I've already expressed to you</p> <p>15 about the limitations of those.</p> <p>16 But I think that that testimony and</p> <p>17 that document are, in my view, additional evidence</p> <p>18 for the fact that the company is not recognizing</p> <p>19 or refuses to recognize the importance of the</p> <p>20 information that is available to the hazard of</p> <p>21 their product and the need to have provided for</p> <p>22 years a warning to women or consumers about the</p> <p>23 use of the product.</p> <p>24 Q. Do you have any other sort of bullet</p>	<p style="text-align: right;">Page 117</p> <p>1 testimony, you know, I just disagree with the</p> <p>2 conclusions he draws about it.</p> <p>3 I also would point out that it's</p> <p>4 very clear that he himself did not do the review</p> <p>5 of those individual pieces of evidence. In other</p> <p>6 words, he -- he talks about he gave it to some</p> <p>7 epidemiologist to look at it or this person to</p> <p>8 look at it.</p> <p>9 So, you know, I just -- I disagree</p> <p>10 with what he says because I don't believe he has</p> <p>11 the -- has done the in-depth analysis, for</p> <p>12 example, that I've done of each of those pieces of</p> <p>13 evidence.</p> <p>14 Q. With regard to the comprehensive</p> <p>15 review document, did you find anything that you</p> <p>16 found to be wrong, mistaken, any omissions that</p> <p>17 you thought should have been included, or anything</p> <p>18 along those lines?</p> <p>19 MS. PARFITT: Okay. And I'll</p> <p>20 just object to the very broad nature of</p> <p>21 that question and Dr. Plunkett's ability</p> <p>22 to actually address that with any</p> <p>23 specificity.</p> <p>24 THE WITNESS: Yeah. So as I</p>

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<p style="text-align: right;">Page 118</p> <p>1 sit here today, I would not be able to  2 give you that. I haven't -- again, this  3 is something I just got in the last week  4 after the trial in St. Louis.  5 So I haven't had an  6 opportunity to necessarily cite to you  7 everything that I would point to, but  8 certainly I think I've given you an  9 understanding of what I believe about  10 that document.  11 BY MR. HEGARTY:  12 Q. Right.  13 A. I don't believe it's an accurate  14 reflection of the weight of the evidence. I don't  15 believe that -- I don't agree with some of the  16 assertions he makes.  17 I am familiar with Dr. Kuffner from  18 the Tylenol litigation, as you may be aware. So,  19 again, not surprised by some of the things I see,  20 but it's -- I don't think it's consistent with the  21 evidence in the case.  22 Q. Yeah. But from your first review of  23 the comprehensive review, did you find anything  24 that was missing or did you find anything that you</p>	<p style="text-align: right;">Page 120</p> <p>1 that I have marked as an exhibit.  2 The first paragraph that I want to  3 talk about that has been revised is paragraph 22.  4 Tell me when you are there.  5 A. I am.  6 Q. Towards the end of that paragraph,  7 you added the sentence beginning: "It also is  8 important to note."  9 Do you see that sentence?  10 A. Yes.  11 Q. With regard to the statement in that  12 sentence that "use of the term 'hazard' rather  13 than 'risk' by FDA in its cosmetic labeling  14 standard means that the likelihood of the harm  15 being discussed (i.e., cancer) does not need to be  16 understood; it only requires that the inherent  17 properties of the substance indicate the substance  18 is capable of harm," why did you add this sentence  19 to your report?  20 A. Because during trial testimony and  21 questions asked by defense, it was very clear that  22 this was an important distinction to make. In  23 other words, the standard for warnings for a  24 cosmetic product are different than the standard</p>
<p style="text-align: right;">Page 119</p> <p>1 recall here today that was a mistake or error?  2 MS. PARFITT: Again, objection  3 to the very broad nature of that question  4 and Dr. Plunkett's ability to answer with  5 any specificity.  6 THE WITNESS: Yeah. I haven't  7 done a side-by-side to see if everything  8 he cites is everything I've cited and  9 that's -- I think that's answers part of  10 your question.  11 And I would reserve the right  12 to do that. I just haven't had a chance  13 to do that yet.  14 BY MR. HEGARTY:  15 Q. Okay.  16 A. And certainly I'll make you aware if  17 I have a new opinion about this area.  18 Q. I want to now turn to your MDL  19 report, which we have marked as Exhibit 6, I  20 believe.  21 Do you have a copy in front of you?  22 A. Yes, I do.  23 Q. And feel free to work from your --  24 the report you have in front of you or the one</p>	<p style="text-align: right;">Page 121</p> <p>1 for warnings for some other types of FDA-regulated  2 products where risk and understanding the  3 likelihood are more important because there's a  4 risk-benefit weighting, right? And there's no  5 risk-benefit weighting for this.  6 This sentence was added specifically  7 because I felt that in the discussion I've given  8 in trial, that this is the opinion I have  9 expressed. So I wanted to make sure. I think  10 it's important to understand.  11 Q. What does capable of causing harm  12 mean in this sentence?  13 A. It means that there is a hazard that  14 has been identified based on reliable scientific  15 evidence. So capable of causing harm means  16 that -- that it can happen, but we don't know --  17 you don't have to know -- and this is the issue --  18 we don't need to know that it happens one in a  19 million people, but we know that cancer can occur.  20 So it's the idea that that hazard is  21 there. The potential is there.  22 Q. When you say "does not need to be  23 understood," what do you mean?  24 A. That the likelihood. You have to --</p>

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<p style="text-align: right;">Page 122</p> <p>1 you have to get the whole phrase.</p> <p>2 Q. Okay.</p> <p>3 A. The likelihood of the harm does not</p> <p>4 need. So it's the number, the quantification of</p> <p>5 that.</p> <p>6 Q. You refer in that sentence to FDA's</p> <p>7 "cosmetic labeling standard."</p> <p>8 To what are you referring to?</p> <p>9 A. Referring to 740.1, but I'm also</p> <p>10 referring back to the Federal Register from where</p> <p>11 they discuss this in 1975 and also back to the</p> <p>12 Food, Drug, and Cosmetic Act, which talks about</p> <p>13 some of the basic responsibilities of putting a</p> <p>14 safe product on the market.</p> <p>15 Q. And the Federal Register is</p> <p>16 something that you've talked about previously?</p> <p>17 A. I have, yes.</p> <p>18 Q. As well as the other documents you</p> <p>19 just referenced?</p> <p>20 A. Yes, that's correct.</p> <p>21 Q. Do you cite, though, in this part of</p> <p>22 your report those other sources that you just</p> <p>23 referenced?</p> <p>24 Because you cite no published</p>	<p style="text-align: right;">Page 124</p> <p>1 from 1975.</p> <p>2 Tell me what other authorities.</p> <p>3 A. And if you go to the description</p> <p>4 within the -- the original description within the</p> <p>5 1938 law about what the standards are for</p> <p>6 marketing a cosmetic.</p> <p>7 And then the other one would be, I</p> <p>8 cite somewhere else in this document in this</p> <p>9 report the 1978 paper by Dr. Kennedy. He also</p> <p>10 talks about that.</p> <p>11 And then I would point you to the --</p> <p>12 the Congressional testimony in 2012 and the GAO</p> <p>13 report from 1978.</p> <p>14 Q. And those are otherwise referenced</p> <p>15 in your amended MDL report?</p> <p>16 A. They're all in here, yeah. Exactly.</p> <p>17 Just not cited in this paragraph. But if you're</p> <p>18 asking for the cites for that, that's what I would</p> <p>19 be building from, that foundation I laid in</p> <p>20 earlier paragraphs or later paragraphs in my</p> <p>21 report.</p> <p>22 Q. And what is your definition in this</p> <p>23 sentence of "harm"?</p> <p>24 A. Harm -- well, I'm referring,</p>
<p style="text-align: right;">Page 123</p> <p>1 authorities for the statement, that is --</p> <p>2 A. Where?</p> <p>3 Q. Well, you say that -- you make</p> <p>4 reference to the FDA's cosmetic labeling standard,</p> <p>5 but you include no citation to what that standard</p> <p>6 is.</p> <p>7 A. Well, I'll give you 21 -- oh, I give</p> <p>8 it in another part of -- I give it in another</p> <p>9 part. Not in this paragraph. So I take you to</p> <p>10 740.1 in another paragraph.</p> <p>11 Q. Okay.</p> <p>12 A. Here -- here the view of this</p> <p>13 paragraph is, I'm trying to explain the issue of</p> <p>14 drug labeling where there is a higher standard for</p> <p>15 adding a warning to a product than there is in</p> <p>16 cosmetics -- than there is for a cosmetic, and I</p> <p>17 discussed this at the last trial a bit, too. It</p> <p>18 is different.</p> <p>19 Q. I just want to make sure that I have</p> <p>20 the published authorities that you rely upon for</p> <p>21 the sentence that we're talking about.</p> <p>22 You mentioned 740.1.</p> <p>23 A. Right.</p> <p>24 Q. You mentioned a Federal Register</p>	<p style="text-align: right;">Page 125</p> <p>1 obviously, in this report to cancer, but harm</p> <p>2 would be anything. Toxicity to tissues.</p> <p>3 Depending upon what piece of evidence that you're</p> <p>4 looking at. So harm is -- is something that is an</p> <p>5 adverse response in the individual or in the</p> <p>6 tissues of the individual.</p> <p>7 Q. Have you published any article where</p> <p>8 you set out the kind of standard that you're</p> <p>9 talking about here?</p> <p>10 MS. PARFITT: Objection.</p> <p>11 Form.</p> <p>12 BY MR. HEGARTY:</p> <p>13 Q. In that added sentence.</p> <p>14 A. I need to look at my -- to answer</p> <p>15 that, I have to go to the CV to answer. I can do</p> <p>16 that if you'd like.</p> <p>17 Q. Okay. Please.</p> <p>18 A. Here it is. I got it.</p> <p>19 So I'm in Exhibit 4.</p> <p>20 So in the general part of this</p> <p>21 sentence about the difference between hazard and</p> <p>22 risk, that is in some of my papers where I talk</p> <p>23 about toxicity programs and testing.</p> <p>24 So, for example --</p>

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<p style="text-align: right;">Page 126</p> <p>1 Q. Do you have any paragraph numbers?</p> <p>2 A. Oh, I'm sorry. On page 4,</p> <p>3 references number 4 and 5. I'm talking about the</p> <p>4 concepts of hazard versus risk in those -- in</p> <p>5 those. So that's -- that's kind of generally what</p> <p>6 I'm talking about here.</p> <p>7 I can see if there's any other. So</p> <p>8 it would be things like that in my CV.</p> <p>9 In 8, I talk about hazard and risk,</p> <p>10 paragraph -- that paper, too. I also talk about</p> <p>11 hazard and risk in paper 9.</p> <p>12 Q. Do the references you cite refer to</p> <p>13 hazard and risk in the cosmetic ingredient</p> <p>14 context?</p> <p>15 A. They're not talking just about</p> <p>16 cosmetics. They're talking about chemical</p> <p>17 exposures. So which would include cosmetic</p> <p>18 ingredients. So to me this sentence here, I agree</p> <p>19 I reference the cosmetic labeling standard, but</p> <p>20 the most important part of why I'm adding this is</p> <p>21 to have people understand there's a different</p> <p>22 between hazard and risk.</p> <p>23 So that I'll say let me point you to</p> <p>24 there for right now. There are some other</p>	<p style="text-align: right;">Page 128</p> <p>1 or cosmetic ingredients whose labeling applies</p> <p>2 this standard or that you would hold up as an</p> <p>3 example of a labeling that applies the standard</p> <p>4 from this new sentence you've added?</p> <p>5 MS. PARFITT: Objection.</p> <p>6 Form.</p> <p>7 THE WITNESS: I would say to</p> <p>8 you that I hope that every marketed</p> <p>9 cosmetic, indeed, applies it because</p> <p>10 they're supposed to. I have worked with</p> <p>11 clients that I instruct them on this</p> <p>12 standard. Some of which I can't tell you</p> <p>13 the names of the companies, but obviously</p> <p>14 so. That's why I point to the published</p> <p>15 literature because -- and then the GAO</p> <p>16 report talks about this issue as well.</p> <p>17 BY MR. HEGARTY:</p> <p>18 Q. Based on your added statement in</p> <p>19 paragraph 22, you agree that a cosmetic does not</p> <p>20 need a warning about a hazard it is not capable of</p> <p>21 causing, correct?</p> <p>22 MS. PARFITT: Objection.</p> <p>23 Form.</p> <p>24 THE WITNESS: If no hazard</p>
<p style="text-align: right;">Page 127</p> <p>1 presentations that I've done on regulatory</p> <p>2 paradigms, and I've talked to you about before.</p> <p>3 Before. Maybe not you, maybe someone else took my</p> <p>4 deposition. Where I've discussed cosmetics as</p> <p>5 part of the FDA regulatory world and the</p> <p>6 differences in the standard.</p> <p>7 MS. PARFITT: And I would just</p> <p>8 object to the extent that</p> <p>9 Ms. Branscome --</p> <p>10 MR. HEGARTY: Right.</p> <p>11 MS. PARFITT: -- back in her</p> <p>12 deposition went at length about hazard</p> <p>13 and risk and what the differences were.</p> <p>14 BY MR. HEGARTY:</p> <p>15 Q. With regard to the sentence we've</p> <p>16 been talking about, other than what you've</p> <p>17 identified so far, can you cite for me any FDA</p> <p>18 authority for the labeling standard that you are</p> <p>19 discussing?</p> <p>20 A. Well, I would -- the Kennedy paper.</p> <p>21 Kennedy was a commissioner of the FDA. So I'd</p> <p>22 cite you to that as an authority, and then the</p> <p>23 regulations themselves.</p> <p>24 Q. Okay. Can you identify any cosmetic</p>	<p style="text-align: right;">Page 129</p> <p>1 exists and that has been verified by the</p> <p>2 company, I would agree.</p> <p>3 There is the other caveat that</p> <p>4 if the company has not -- has not done</p> <p>5 the assessment to look at whether there</p> <p>6 is a hazard, then there is the</p> <p>7 requirement to put a statement on the</p> <p>8 label -- and I've talked about this</p> <p>9 before --</p> <p>10 BY MR. HEGARTY:</p> <p>11 Q. Sure.</p> <p>12 A. -- right -- that the safety of this</p> <p>13 product has not been determined.</p> <p>14 Q. A related question based on your</p> <p>15 added statement.</p> <p>16 You agree that a cosmetic -- you</p> <p>17 agree that a cosmetic does not need a warning</p> <p>18 about a hazard objectively it is not capable of</p> <p>19 causing, correct?</p> <p>20 MS. PARFITT: Objection.</p> <p>21 THE WITNESS: If the</p> <p>22 assessment has been done to determine</p> <p>23 that, yes. Again, it all has to</p> <p>24 predicate back to whether or not an</p>



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<p style="text-align: right;">Page 130</p> <p>1 assessment was done.</p> <p>2 BY MR. HEGARTY:</p> <p>3 Q. If you would turn next to paragraph</p> <p>4 28 of your amended MDL report.</p> <p>5 A. Okay.</p> <p>6 Q. There is language in the middle of</p> <p>7 that paragraph that you added beginning the "IARC</p> <p>8 in its 2010 Monograph on talc"?</p> <p>9 A. Yes.</p> <p>10 Q. Do you see that part that you added?</p> <p>11 Why did you add this language to</p> <p>12 this part of your report?</p> <p>13 A. Because this is consistent with</p> <p>14 testimony that I've given in talc cases that I</p> <p>15 have worked on, so -- since the original MDL</p> <p>16 report was written and so I thought it was</p> <p>17 important to clarify. Obviously based on</p> <p>18 questions asked at trial, there appears to be some</p> <p>19 confusion about this issue.</p> <p>20 Q. This section, the section that you</p> <p>21 added, describes two different types of talc.</p> <p>22 First, one that may appear as fibers and second,</p> <p>23 talc that has been formed as asbestiform fibers</p> <p>24 that are "very long and thin and occur in parallel</p>	<p style="text-align: right;">Page 132</p> <p>1 bulk samples or on an air filters, they may appear</p> <p>2 to be fibres and have been identified as such.</p> <p>3 Talc may also form as true mineral fibres that are</p> <p>4 asbestiform."</p> <p>5 So between those two parts of that</p> <p>6 addition, are those talking, in your view, about</p> <p>7 two different types of talc?</p> <p>8 MS. PARFITT: Objection.</p> <p>9 THE WITNESS: I wouldn't say</p> <p>10 two different. I would say type -- types</p> <p>11 of talc if what you're referring to is</p> <p>12 physical form, yes. But not -- they're</p> <p>13 all talc and they're all in talcum</p> <p>14 powder.</p> <p>15 BY MR. HEGARTY:</p> <p>16 Q. But do you agree that the sentence</p> <p>17 that you added in quotations includes two --</p> <p>18 describes two different types of physical -- the</p> <p>19 physical form of talc?</p> <p>20 MS. PARFITT: And I would just</p> <p>21 make the comment. That's not the</p> <p>22 completed sentence. It goes on to say</p> <p>23 "Asbestiform describes the pattern of</p> <p>24 growth." So you've referred her to just</p>
<p style="text-align: right;">Page 131</p> <p>1 bundles that are easily separated from each other</p> <p>2 by hand pressure," correct?</p> <p>3 A. That statement is there. That is</p> <p>4 correct.</p> <p>5 Q. In other words, do you agree that</p> <p>6 the additional statement you added describes two</p> <p>7 types of talc: one that appears as fibers and the</p> <p>8 second that has been formed as asbestiform fibers?</p> <p>9 MS. PARFITT: You're asking</p> <p>10 her if that's what that statement says?</p> <p>11 MR. HEGARTY: Correct.</p> <p>12 THE WITNESS: I don't think I</p> <p>13 understand.</p> <p>14 BY MR. HEGARTY:</p> <p>15 Q. Sure.</p> <p>16 A. I don't think the question is that.</p> <p>17 I would agree with you that there are platy talc</p> <p>18 and there's fibrous talc. If that's what you're</p> <p>19 asking me, I would agree to that.</p> <p>20 Q. Let me ask in a different way.</p> <p>21 The way that the quoted language as</p> <p>22 I read it says:</p> <p>23 "Talc particles are normally</p> <p>24 plate-like. When viewed under the microscope in</p>	<p style="text-align: right;">Page 133</p> <p>1 part of the sentence, not the complete</p> <p>2 sentence.</p> <p>3 MR. HEGARTY: Sure.</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. And what I'm trying to just</p> <p>6 establish is whether, in adding this sentence, you</p> <p>7 understood that the quoted material from the IARC</p> <p>8 2010 Monograph is talking about two different --</p> <p>9 two different physical forms of talc.</p> <p>10 MS. PARFITT: Objection.</p> <p>11 THE WITNESS: I would say it</p> <p>12 is -- it is referring to talc that can</p> <p>13 occur in a -- in a powder physically that</p> <p>14 looked different under a microscope. So,</p> <p>15 in other words, they do look different</p> <p>16 and they have some different physical</p> <p>17 properties because of that.</p> <p>18 However, all of them are</p> <p>19 within talc. Talc itself is a natural</p> <p>20 product that has these things within it.</p> <p>21 BY MR. HEGARTY:</p> <p>22 Q. And what are the physical properties</p> <p>23 of the first talc they describe that where they're</p> <p>24 talking about "in bulk samples or on air filters,</p>

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<p style="text-align: right;">Page 134</p> <p>1 they may appear to be fibres and have been 2 identified as such"? 3 MS. PARFITT: I would -- I'm 4 going to object. This examination with 5 regard to fibers, asbestiform, 6 asbestiform the pattern was all examined 7 exhaustively by Ms. Branscome back in her 8 2018 deposition. We talked about IARC 9 '87, '10, '12. 10 So I would suggest that this 11 is material that is not new material that 12 Dr. Plunkett has examined, not only in 13 her last deposition but, frankly, in the 14 multiple trials in between that window. 15 MR. HEGARTY: But I am 16 talking, though, about a new section 17 that's been added to this paragraph only 18 that was not there before. 19 MS. PARFITT: Yeah, a new 20 section, but the materials precisely what 21 was addressed in the deposition. She may 22 have added that paragraph, but the 23 examination of what that paragraph states 24 was something that Dr. Plunkett was</p>	<p style="text-align: right;">Page 136</p> <p>1 talcum powder, silica. 2 Do you see that addition? 3 A. Yes, I do. 4 Q. Why did you add silica to your list 5 where you had not done that before? 6 A. So I don't know why it wasn't there 7 before because I believe it's in one of my earlier 8 reports before the MDL report. So if you go back 9 and look at my 2016 original report, I talk about 10 silica, and I talk about silica in my original MDL 11 report in the section on chemical constituents. I 12 think I mention it. 13 But -- so I added it just because I 14 believe that this is consistent with things I have 15 said before at trial and also consistent with, I 16 believe, my original report in 2016. 17 Q. In your original report, that was 18 not in the MDL, though, right? 19 A. No, but it formed the basis for me 20 eventually writing my MDL. All of my reports have 21 built one on the other. So certainly when I 22 started to write the original MDL report, I 23 started with my report that I believe -- am I 24 wrong on the date? I believe it's 2016 but --</p>
<p style="text-align: right;">Page 135</p> <p>1 exhaustively examined about. 2 MR. HEGARTY: So is that an 3 area that we would disagree on that has 4 been covered before? 5 MS. PARFITT: I believe it 6 would be, yes. 7 MR. HEGARTY: Okay. 8 MS. PARFITT: Yes. 9 Absolutely. 10 MR. HEGARTY: So at least for 11 now we'll -- we'll -- 12 MS. PARFITT: Put it over to 13 that category. 14 MR. HEGARTY: -- mark that as 15 an area that we disagree on whether we 16 covered it or not. 17 MS. PARFITT: That's fine. 18 BY MR. HEGARTY: 19 Q. The next paragraph that I want to 20 reference is paragraph 30 in your report, and tell 21 me when you're there. 22 A. I am. 23 Q. About five lines down, you added to 24 that, to the list of material that you say is in</p>	<p style="text-align: right;">Page 137</p> <p>1 Q. 2016 -- 2 A. Yeah. 3 Q. -- is when you did a report. 4 A. Yeah, exactly. So -- so that's my 5 answer to that is I was looking. I wanted to make 6 sure that everything in this amended report was 7 consistent with things that were in my original 8 MDL report, but also consistent with any testimony 9 or discussion I may have had in throughout the 10 litigation that I participated in. 11 Q. Do you recall if in those prior 12 reports whether you did a risk analysis as it 13 relates to silica in baby powder? 14 A. So what do you mean by "a risk 15 analysis"? 16 Q. Let me restate my question. 17 Do you recall in any prior report 18 whether you did any type of analysis of any risk 19 of ovarian cancer as it relates to silica exposure 20 in talcum powder? 21 A. I did not do a separate risk for 22 silica as a particular constituent of baby powder 23 that drove a risk. Instead what I did with 24 silica, as I did with all of these constituents</p>



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<p style="text-align: right;">Page 138</p> <p>1 listed here, is that they all contribute to the  2 risk. So, in other words, these are multiple  3 compounds that have this ability to cause  4 irritation and chronic inflammation.  5 Q. All right. If you would look at the  6 next paragraph, paragraph 31. You added the line  7 at the end that says:  8 "My analysis is consistent with how  9 IARC considered the cancer risks of different  10 forms of talc."  11 Do you see that additional line?  12 A. Yes.  13 Q. Why did you add that additional  14 line?  15 A. Because I believe that is consistent  16 with what I've had said at trial before when I've  17 talked about the different issues related to the  18 IARC analysis.  19 Q. And when you say "considered the  20 cancer risks," are you saying your approach was  21 identical to IARC's approach?  22 A. No. I'm saying that my analysis is  23 consistent in terms of the fact of identifying the  24 fact that there are multiple constituents which</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. The next paragraph I want to talk  2 about is paragraph 33. Tell me when you are  3 there.  4 A. I am.  5 Q. You say towards the beginning of  6 that paragraph or you added towards the beginning  7 of that paragraph that "the data has shown that  8 powders contain variable levels of fibers,  9 including" then you added the phrase "fibrous talc  10 as well as."  11 Do you see that addition?  12 A. I do.  13 Q. Whereas, before you had only said  14 "including fibers that were stated to be  15 asbestos."  16 Why did you add that reference here?  17 A. To make the clear distinction  18 that -- that as -- as I have discussed within my  19 testimony that there is a separate constituent  20 known as fibrous talc that is not asbestos. There  21 is asbestos fibers and then there's talc fibers,  22 and they are, indeed -- and there are in these  23 documents cited here, for example, some of the  24 internal company documents. They distinguish</p>
<p style="text-align: right;">Page 139</p> <p>1 can drive the risk.  2 Q. Did you go and compare the materials  3 you reviewed with the materials IARC reviewed in  4 2006 to see if you had reviewed the same thing?  5 A. I did do that. I believe I was  6 asked about that a while ago. I did initially do  7 that, yes. I looked at the literature that IARC  8 described, and obviously they don't have all the  9 literature I have because they -- the analysis  10 from 2010 was based upon literature up to 2006,  11 for example. But yes, I did do that initially.  12 Q. And based on the data available to  13 IARC in 2006, do you agree with where IARC came  14 down at the time?  15 MS. PARFITT: Objection. This  16 area was previously examined --  17 MR. HEGARTY: Okay.  18 MS. PARFITT: -- back on her  19 deposition of 12/18/19.  20 MR. HEGARTY: Okay. I'm not  21 sure that's correct, but we'll put that  22 aside for now.  23 MS. PARFITT: Sure. Okay.  24 BY MR. HEGARTY:</p>	<p style="text-align: right;">Page 141</p> <p>1 between fiber amphiboles within talc, which they  2 call "tremolite," but they don't call it asbestos,  3 and then they have other times that they talk  4 about asbestos.  5 So it's -- it is in order to be  6 consistent with the documents that I'm relying  7 upon, I think that's important to point out.  8 Q. Later on in that paragraph, you have  9 added additions to what Drs. Longo and Rigler  10 reported in their report of August 2, 2017.  11 Do you see that -- that part of the  12 addition to this paragraph?  13 A. Yes.  14 Q. There you make reference to them  15 referring to or finding asbestiform talc. Then  16 you say "report of Longo and Rigler dated  17 February 1, 2019."  18 Do you see that reference?  19 A. In the next sentence? Yes.  20 Q. Yes, the next sentence.  21 A. Yes, I see that.  22 Q. And when you say "asbestiform talc"  23 as it relates to that report, to what are you  24 referencing?</p>

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<p style="text-align: right;">Page 142</p> <p>1 A. I'm referencing how they referred to 2 it in their report, which I believe that is 3 exactly what they said. I attempted to take the 4 language of the report. 5 Q. In this -- this addition that you've 6 provided here, are you defining fibrous talc the 7 same as Longo and Rigler are defining it in their 8 report? 9 MS. PARFITT: Objection. 10 Form. 11 THE WITNESS: I'm defining 12 it -- I'm defining it in my report and 13 that's what I'm relying on. 14 So I can't answer that without 15 -- I don't recall whether or not -- what 16 they say in terms. I mean, they have 17 their own report and their own definition 18 potentially. I think I'm consistent with 19 that, though. 20 They understand -- when I've 21 looked at their data in their reports, 22 they are, indeed, recognizing that there 23 are fibers of talc, fibrous talc, and 24 that there are also can be at times</p>	<p style="text-align: right;">Page 144</p> <p>1 asbestos and cancer risk apply equally to 2 asbestiform talc." 3 Do you see where I'm reading from? 4 A. No, I'm sorry. On the next page? 5 Are you on page 22? 6 Q. It's towards the bottom. It's the 7 last third of the paragraph. 8 A. Okay. Yeah, I got it. I see that. 9 Q. Do you see that? 10 And the addition, the next line 11 says: 12 "This makes clear that IARC has 13 classified fibrous talc as a known human 14 carcinogen. Other regulatory authorities have 15 addressed the cancer risk associated with fibrous 16 talc." 17 Do you see those additions? 18 A. I do. 19 Q. Are you referring in this addition 20 to fibrous talc as the same thing as asbestiform 21 talc? 22 MS. PARFITT: Objection. 23 Again, these questions have been asked at 24 the prior deposition.</p>
<p style="text-align: right;">Page 143</p> <p>1 asbestos as well. 2 BY MR. HEGARTY: 3 Q. Well -- and then my question really 4 goes with regard to the additions you have here, 5 are you defining fibrous talc the same as Longo 6 and Rigler are defining it? 7 MS. PARFITT: Objection. 8 Asked and answered. 9 THE WITNESS: All I can tell 10 you is, I have -- I don't -- I haven't 11 done that comparison to tell you that. 12 I can tell you I have defined 13 it the way I am using it, and so when I 14 testify, hopefully you understand and you 15 read this, you know what I mean. I 16 believe it's consistent, but I haven't 17 gone to read every word to see if every 18 definition is the same. 19 BY MR. HEGARTY: 20 Q. Towards the end of that paragraph, 21 you added the line: 22 "In IARC's most recent findings 23 regarding asbestos and cancer (IARC, 2012) 24 scientists explicitly stated that its findings on</p>	<p style="text-align: right;">Page 145</p> <p>1 MR. HEGARTY: I don't think 2 this. I think this is specific to these 3 additions. So I don't agree with that. 4 I'm just talking about in these lines -- 5 these two lines. 6 MS. PARFITT: Sure. 7 BY MR. HEGARTY: 8 Q. Are you equating fibrous talc with 9 asbestiform talc? 10 A. Fibrous talc would be talc in the 11 asbestiform habit. Yes, that is correct. 12 Q. Okay. 13 A. Which is consistent with IARC's 14 discussion in their documents. 15 Q. And you make reference here to other 16 regulatory authorities that have addressed cancer 17 risk associated with fibrous talc. You give one 18 example there. Actually, you give a couple 19 examples. 20 Do you have any other examples 21 besides -- that you're referring to when you're 22 saying "other regulatory authorities" besides 23 those you list there? 24 A. Well, I think -- I think I could --</p>

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<p style="text-align: right;">Page 146</p> <p>1 I only listed this here, but any -- if I look  2 across the world, there are many regulatory bodies  3 that have called talc -- have called asbestiform  4 fibers known human carcinogens. I certainly  5 haven't given you every one. So certainly Health  6 Canada would fit here.  7 Q. All right. Did Health Canada,  8 though, in its 2021 assessment use the phrase  9 "fibrous talc"?  10 A. No. They used the word -- they used  11 words such as "asbestiform habit" or  12 "non-asbestiform," yes.  13 Q. And in particular, though, as it  14 relates to the Health Canada assessment, that  15 assessment was directed at talc without asbestos,  16 correct?  17 A. The without asbestos, that's  18 correct.  19 Q. And that assessment was also  20 addressing -- also addressed talc without what you  21 would call fibrous talc, correct?  22 MS. PARFITT: Objection.  23 THE WITNESS: I don't know  24 whether I agree with that or not. I -- I</p>	<p style="text-align: right;">Page 148</p> <p>1 A. (Reviews document.)  2 MR. HEGARTY: Can we go off  3 the record just for a second.  4 (Recess: 11:30 a.m. -  5 11:32 a.m.)  6 MR. HEGARTY: We're back on  7 the record.  8 And when we went off the  9 record, I had asked Dr. Plunkett to find  10 in either the Health Canada -- the Health  11 Canada risk assessment that we marked as  12 Exhibit No. 13 where she believes Health  13 Canada applies their findings to fibrous  14 talc.  15 And during the course of being  16 off the record, Dr. Plunkett also  17 indicated she needed to look at her  18 report in a particular paragraph for that  19 report.  20 BY MR. HEGARTY:  21 Q. And I believe, Dr. Plunkett, you  22 have not yet found that reference you're looking  23 for; is that correct?  24 A. Yes, that's exactly right. Although</p>
<p style="text-align: right;">Page 147</p> <p>1 think -- let's pull it out because they  2 actually -- let me look at their  3 language.  4 BY MR. HEGARTY:  5 Q. Okay. Let me --  6 A. Because they do have specific  7 language. So...  8 MR. HEGARTY: Let me go ahead  9 and mark that just so you have it for the  10 record. I'll mark it as -- the Health  11 Canada risk assessment as Exhibit No. 13.  12 (Document marked for  13 identification as Plunkett Exhibit 13.)  14 MR. HEGARTY: I have a copy,  15 counsel, for you.  16 MS. PARFITT: Thank you.  17 THE WITNESS: I have one  18 here, too.  19 BY MR. HEGARTY:  20 Q. Okay. And you get that one.  21 The question now standing is: Where  22 in that assessment do you identify Health Canada  23 as indicating that assessment applies to fibrous  24 talc?</p>	<p style="text-align: right;">Page 149</p> <p>1 I think I already answered the question. I don't  2 believe they use the word "fibrous talc." That's  3 for sure. So...  4 Q. Did you find anything in the risk  5 assessment itself of a description of -- of a  6 description that you thought was applicable to  7 fibrous talc? In other words, where you thought  8 that the assessment would apply to fibrous talc  9 based on the language used?  10 A. Right. I would say that based on  11 the language used, what I -- what I remember from  12 this -- and that's why I was looking -- is that  13 there's a -- there's actually a discussion that  14 they are focusing on findings for non-asbestiform  15 talc, right, in other words, and they found that  16 to be a carcinogen, not even looking at, I  17 believe, this issue of the known human  18 carcinogenicity of asbestos and those things.  19 But I believe they were focusing on  20 the issue of asbestos-free, and that's what I need  21 to look at. So...  22 Q. Okay. We'll make a note and come  23 back to that.  24 MS. PARFITT: See where we are</p>

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<p style="text-align: right;">Page 150</p> <p>1 time-wise, yes.</p> <p>2 BY MR. HEGARTY:</p> <p>3 Q. Towards the end of that paragraph,</p> <p>4 actually at the very end of the paragraph we're</p> <p>5 looking at, which is paragraph number 33.</p> <p>6 A. Yeah.</p> <p>7 Q. You added a statement:</p> <p>8 "A finding that also could be</p> <p>9 applied to similar fibers, such as fibrous talc."</p> <p>10 You see that addition?</p> <p>11 A. Yes.</p> <p>12 Q. And that sentence now reads:</p> <p>13 "This means that human exposure to</p> <p>14 even very low levels of asbestos increase the risk</p> <p>15 of toxic effects including cancer."</p> <p>16 Then you added:</p> <p>17 "A finding that also could be</p> <p>18 applied to similar fibers, such as fibrous talc."</p> <p>19 Do you see where I'm reading from?</p> <p>20 A. Yes.</p> <p>21 Q. Can you identify for me any written</p> <p>22 authority for applying that same finding as to low</p> <p>23 levels of asbestos to fibers, such as fibrous</p> <p>24 talc?</p>	<p style="text-align: right;">Page 152</p> <p>1 Form.</p> <p>2 THE WITNESS: So it would be</p> <p>3 my training and experience in toxicology.</p> <p>4 And I'd also say this is</p> <p>5 consistent, although it's making a</p> <p>6 different point than IARC, but IARC</p> <p>7 documents make the point that fibrous</p> <p>8 forms of talc, asbestiform habit talc, is</p> <p>9 a known human carcinogen just as asbestos</p> <p>10 would be.</p> <p>11 So I would start there, go to</p> <p>12 the fact that the general principles of</p> <p>13 toxicology would dictate that the</p> <p>14 physical form is the issue. And so at</p> <p>15 very low levels of a physical form of</p> <p>16 asbestos cause carcinogenicity, I would</p> <p>17 expect there to be very low levels cause</p> <p>18 it with talc.</p> <p>19 I'm not saying they have the</p> <p>20 exact same threshold if we could find</p> <p>21 one, which we don't for either of these,</p> <p>22 but it would be the same principle in</p> <p>23 terms of health protection and -- and</p> <p>24 risk, or hazard.</p>
<p style="text-align: right;">Page 151</p> <p>1 A. So it would be based upon -- there's</p> <p>2 a document that I've either used at trial or maybe</p> <p>3 it's in my report here where the company</p> <p>4 themselves recognizes that fibers of talc carry</p> <p>5 the same type of hazard as asbestos does, and then</p> <p>6 it's the -- it's general principle of toxicology</p> <p>7 that knowing that what drives asbestos is the</p> <p>8 shape. It's the fibrous form of asbestos.</p> <p>9 So other fibers would be expected to</p> <p>10 have the same issue in terms of being carrying a</p> <p>11 risk even at low levels of exposure because the</p> <p>12 tissue can't handle the fiber. That's the same</p> <p>13 issue. Asbestos fibers get into the tissue. They</p> <p>14 aren't degraded by the tissue or can't be based</p> <p>15 upon they're too big for the macrophage to engulf.</p> <p>16 Same thing with the talc fiber.</p> <p>17 Q. So other than what you recall as a</p> <p>18 company document that makes reference to fibrous</p> <p>19 talc in relation to asbestos, can you cite for me</p> <p>20 any other written document that makes this same</p> <p>21 statement that you have extended from very low</p> <p>22 levels of asbestos to fibers, such as fibrous</p> <p>23 talc?</p> <p>24 MS. PARFITT: Objection.</p>	<p style="text-align: right;">Page 153</p> <p>1 BY MR. HEGARTY:</p> <p>2 Q. If we turn next to paragraph 37.</p> <p>3 You added a couple of statements in this paragraph</p> <p>4 directed at silica. In particular, you added a</p> <p>5 statement that referred to a few Johnson &amp; Johnson</p> <p>6 documents. 260573 through 5704, 260570, 260709.</p> <p>7 Do you see where I'm reading from?</p> <p>8 A. I do.</p> <p>9 Q. Then towards the end of the</p> <p>10 paragraph, you added the sentence:</p> <p>11 "With respect to silica, levels also</p> <p>12 appeared to vary across lots. Like asbestos and</p> <p>13 fibrous talc, silica is a known human carcinogen."</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. And with regard to silica and your</p> <p>17 statement that it is a known human carcinogen,</p> <p>18 what types of cancer has it been shown to cause?</p> <p>19 A. I'd have to pull the -- certainly it</p> <p>20 has been shown to cause lung cancer. I'd have to</p> <p>21 pull out the -- to give you a complete list, I'd</p> <p>22 have to pull the monograph out.</p> <p>23 But the issue is, it's a hazard of</p> <p>24 cancer, just like it's a hazard of cancer for</p>

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<p style="text-align: right;">Page 154</p> <p>1 these other fibrous or particle-like substances  2 within the -- so I'm using this in hazard in  3 notice. I'm not necessarily building a block for  4 general causation because I'm not doing that,  5 actually, but it's a different issue.  6 MR. HEGARTY: One of the  7 materials we were provided that we had  8 looked at earlier from Exhibit No. 9 is  9 what I'm marking as Exhibit No. 14.  10 (Document marked for  11 identification as Plunkett Exhibit 14.)  12 MR. HEGARTY: I only have one  13 copy. I'm sorry.  14 BY MR. HEGARTY:  15 Q. What is that? What is Exhibit  16 No. 14?  17 A. So this is the report on carcinogens  18 from 1998. So in the litigation, I've talked  19 about the RoC process for talc. Well, there was a  20 RoC process for silica, and so this was one of the  21 documents.  22 I've actually had this in my files  23 for a long time, but since I was filling out --  24 I'm sorry -- this section of my report with a</p>	<p style="text-align: right;">Page 156</p> <p>1 for example, this document talks about  2 dose-response.  3 BY MR. HEGARTY:  4 Q. I guess the -- the first question,  5 just generally whether in making the statement  6 that silica is a known human carcinogen whether  7 you did an assessment as far as what doses are  8 necessary for it to have carcinogenic effect.  9 MS. PARFITT: Objection.  10 Dr. Plunkett was examined with regard to  11 heavy metals and some of the other types  12 of minerals.  13 MR. HEGARTY: Right.  14 MS. PARFITT: You are correct.  15 Silica at that time was not examined.  16 MR. HEGARTY: Right.  17 MS. PARFITT: But I believe  18 her general explanation with regard to  19 all heavy metals and dosages and  20 thresholds and all of that was clearly  21 examined.  22 THE WITNESS: So the answer  23 to your question is, I did not do a  24 silica-specific ovarian cancer risk</p>
<p style="text-align: right;">Page 155</p> <p>1 little more detail, I added this one, too, because  2 I had this one already in my files. I pulled this  3 a while ago.  4 Q. Okay. Do you recall reviewing any  5 published medical literature that has linked  6 exposure to silica to ovarian cancer risk?  7 MS. PARFITT: Objection.  8 Form.  9 THE WITNESS: I did not do a  10 specific assessment for only ovarian  11 cancer risk and silica, no.  12 BY MR. HEGARTY:  13 Q. For the statements you've added to  14 your paragraph regarding silica, did you do any  15 assessment as it relates to dose levels of silica  16 that create any type of risk?  17 MS. PARFITT: Objection.  18 Form.  19 THE WITNESS: Are you asking  20 me about, did I try to determine if  21 there's a particular threshold within  22 talcum body powder that needs to be  23 reached, or are you just asking me  24 generally about dose-response? Because,</p>	<p style="text-align: right;">Page 157</p> <p>1 assessment. That's probably the best  2 answer to your question.  3 Again, my assessment for the  4 heavy metals, as well as silica, was  5 focusing on the issue of a complex  6 mixture of constituents that could have  7 additive effects when you talk about  8 cancer hazard and also even risk.  9 Because we know that in cancer  10 risk assessments, compounds that share  11 the same mechanism of action, which by  12 the way this one causes irritation,  13 chronic inflammatory responses, as a  14 plausible mechanism discussed for the  15 onset of cancer.  16 BY MR. HEGARTY:  17 Q. You say that "silica levels also  18 appeared to vary across lots."  19 Are you talking about lots of  20 Johnson's Baby Powder?  21 A. Yes, that's correct. And I  22 apologize. That would have been more precise to  23 say that. I should say lots of Johnson &amp;  24 Johnson's Baby Powder as well as -- and what I</p>



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<p style="text-align: right;">Page 158</p> <p>1 mean by that, also I would say even there's some</p> <p>2 -- some data on the -- not the bottle of the</p> <p>3 powder, but also the drums of the baby powder as</p> <p>4 well.</p> <p>5 Q. When you referred to silica varying</p> <p>6 across lots, did you make any assessment as to</p> <p>7 whether the amount of silica in those lots was at</p> <p>8 a dose capable of causing any type of cancer?</p> <p>9 MS. PARFITT: Objection.</p> <p>10 Form.</p> <p>11 THE WITNESS: I didn't do a</p> <p>12 dose analysis, no. But what I did do was</p> <p>13 look at and I'm aware of what the company</p> <p>14 themselves, and there may be some of</p> <p>15 these documents that I'm citing here</p> <p>16 about levels of silica. They may have</p> <p>17 made that comment.</p> <p>18 It's the idea that silica is</p> <p>19 something that -- there are</p> <p>20 specifications where you don't want</p> <p>21 certain levels of silica in powder</p> <p>22 products.</p> <p>23 So there were even, I think,</p> <p>24 within the specifications for Johnson &amp;</p>	<p style="text-align: right;">Page 160</p> <p>1 you make reference to Canadian government action</p> <p>2 in 2007 as well as the risk assessment that Canada</p> <p>3 did as it relates to talc in December 2018 and</p> <p>4 April 2021.</p> <p>5 Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. Those additions?</p> <p>8 A. Yes.</p> <p>9 Q. What is your authority or source</p> <p>10 document for the statements regarding the Canadian</p> <p>11 government's findings in 2007?</p> <p>12 A. So that's at their website. If you</p> <p>13 go to the Hotlist for talc, you'll find that there</p> <p>14 was an addition of a warning to the product that</p> <p>15 was talked about in 2007.</p> <p>16 Q. Did that additional warning result</p> <p>17 from a finding of toxicity with talc products?</p> <p>18 A. I'd have to go look at the site.</p> <p>19 It had to do with the data and the</p> <p>20 information about -- about talc products, yes,</p> <p>21 about talc powder and lung toxicity, yes. I</p> <p>22 believe it had to do with these issues -- part of</p> <p>23 it was related to the issues of not only the</p> <p>24 infants, but more than that as well.</p>
<p style="text-align: right;">Page 159</p> <p>1 Johnson some issues about that. Yet,</p> <p>2 they still were detecting it at times in</p> <p>3 certain product.</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. You did not do an assessment as to</p> <p>6 whether the amounts of silica that you have seen</p> <p>7 reported in Johnson's Baby Powder lots are capable</p> <p>8 of creating an ovarian cancer risk by themselves,</p> <p>9 correct?</p> <p>10 MS. PARFITT: Objection.</p> <p>11 Form.</p> <p>12 THE WITNESS: That is</p> <p>13 correct. Because my -- my issue on</p> <p>14 ovarian cancer risk is driven by the</p> <p>15 complex mixture, not just by individual</p> <p>16 constituent.</p> <p>17 BY MR. HEGARTY:</p> <p>18 Q. Okay. If you would next turn to</p> <p>19 paragraph 41.</p> <p>20 A. Okay.</p> <p>21 Q. Towards the end of that paragraph,</p> <p>22 you make reference to findings of -- or let me</p> <p>23 back up.</p> <p>24 Towards the end of that paragraph,</p>	<p style="text-align: right;">Page 161</p> <p>1 Q. But my question was or what I was</p> <p>2 trying to get at was whether the warning as</p> <p>3 relates to inhaling talc particles was limited to</p> <p>4 asphyxiation?</p> <p>5 A. No, I don't think this one was.</p> <p>6 Because this one is also related, I believe, to</p> <p>7 the WHMIS Toxic TEA, which talks about lung</p> <p>8 toxicity in workers. So it's not just certainly</p> <p>9 the infants were there, but it was the worker. I</p> <p>10 believe this has to do with the WHMIS as well.</p> <p>11 Q. Whatever the references would be or</p> <p>12 citations would be reflected in the website that</p> <p>13 you just referred me to, correct?</p> <p>14 A. Either looking at the WHMIS listing</p> <p>15 for it or the -- I mean, if you search "talc" on</p> <p>16 the Health Canada website, you can link to all</p> <p>17 these pages and so that's where I went. And there</p> <p>18 are actions in 2007 that are reflected by these,</p> <p>19 the statement I'm making.</p> <p>20 Q. And the reason I ask that was</p> <p>21 because you don't include a citation after that</p> <p>22 sentence.</p> <p>23 A. Oh. So the citation that should be</p> <p>24 there is the Health Canada website. So I</p>

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<p style="text-align: right;">Page 162</p> <p>1 apologize. You noticed I tended to do that for</p> <p>2 you, and that's one that should be there, yes.</p> <p>3 Q. Regarding the Health Canada risk</p> <p>4 assessment that you describe here, again, you have</p> <p>5 not had any communication with the Canadian</p> <p>6 regulatory authority about talc or asbestos,</p> <p>7 correct?</p> <p>8 A. That's correct. I have dealt with</p> <p>9 Health Canada before in other venues for other</p> <p>10 compounds. I'm very familiar with them, but not</p> <p>11 with talc. I haven't talked to them specifically.</p> <p>12 Q. And we'll talk about that just in a</p> <p>13 moment.</p> <p>14 Did you provide any of your expert</p> <p>15 reports to Health Canada?</p> <p>16 A. No, I did not.</p> <p>17 Q. When you reviewed the Health Canada</p> <p>18 risk assessment, did you note that it included in</p> <p>19 its list of reliance materials expert reports from</p> <p>20 litigation?</p> <p>21 A. In the final screening assessment?</p> <p>22 It did.</p> <p>23 Q. Yes.</p> <p>24 A. That's correct. The public --</p>	<p style="text-align: right;">Page 164</p> <p>1 something I'd have to do an analysis of.</p> <p>2 It's very possible that in the broad FDA</p> <p>3 world, for example, that that has</p> <p>4 happened across different products and</p> <p>5 different categories. It's very</p> <p>6 possible, but I haven't done that</p> <p>7 analysis.</p> <p>8 So I'd have to look to answer</p> <p>9 that question.</p> <p>10 BY MR. HEGARTY:</p> <p>11 Q. Are you aware of any written</p> <p>12 assessment from any regulatory authority that has</p> <p>13 cited to expert reports in litigation?</p> <p>14 MS. PARFITT: Objection.</p> <p>15 Asked and answered.</p> <p>16 THE WITNESS: Any regulation?</p> <p>17 You mean not just FDA?</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. Any regulation, not just FDA.</p> <p>20 MS. PARFITT: Objection.</p> <p>21 THE WITNESS: I'd have to go</p> <p>22 look. I can't answer that without</p> <p>23 looking. I've never done that type of</p> <p>24 analysis.</p>
<p style="text-align: right;">Page 163</p> <p>1 public was invited to submit and some of the</p> <p>2 reports of both defense and plaintiff's experts in</p> <p>3 litigation were submitted to the website or to the</p> <p>4 docket.</p> <p>5 Q. Have you in any of your published</p> <p>6 articles ever referenced to or cited litigation</p> <p>7 reports?</p> <p>8 A. In my published articles?</p> <p>9 Q. Correct.</p> <p>10 A. I probably have not, no. It doesn't</p> <p>11 mean that I haven't seen it done by -- by -- other</p> <p>12 regulatory authorities do do that because</p> <p>13 everything that comes in must be listed as part of</p> <p>14 the information they looked at.</p> <p>15 Q. And I was limiting my question to</p> <p>16 just your published articles.</p> <p>17 And you have not done so?</p> <p>18 A. No, I have not.</p> <p>19 Q. Can you cite for me to any risk --</p> <p>20 to any written safety assessment from FDA where it</p> <p>21 cited to expert reports from litigation?</p> <p>22 MS. PARFITT: Objection.</p> <p>23 Form.</p> <p>24 THE WITNESS: That's</p>	<p style="text-align: right;">Page 165</p> <p>1 BY MR. HEGARTY:</p> <p>2 Q. You are aware that IARC limits its</p> <p>3 review to published medical literature, correct?</p> <p>4 A. Public --</p> <p>5 Q. Publicly available.</p> <p>6 MS. PARFITT: Objection.</p> <p>7 THE WITNESS: Publicly</p> <p>8 available information. That's correct.</p> <p>9 BY MR. HEGARTY:</p> <p>10 Q. IARC would not consider expert</p> <p>11 reports in litigation, correct?</p> <p>12 MS. PARFITT: Objection.</p> <p>13 Form.</p> <p>14 THE WITNESS: It may. It may</p> <p>15 consider an expert report in litigation</p> <p>16 in terms of the science cited that's</p> <p>17 public, but no, I can't imagine that they</p> <p>18 would rely on an expert report by itself</p> <p>19 without digging all the way into the</p> <p>20 science, which is what they do. They go</p> <p>21 to the -- the primary sources that have</p> <p>22 been looked at.</p> <p>23 BY MR. HEGARTY:</p> <p>24 Q. Have you ever advised a client as to</p>

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<p style="text-align: right;">Page 166</p> <p>1 an issue about a cosmetic based on an expert 2 report from litigation? 3 MS. PARFITT: Objection. 4 THE WITNESS: No. It's never 5 come up in the clients I've worked with. 6 BY MR. HEGARTY: 7 Q. Have you looked for any other 8 Canadian authorities that has come -- that have 9 come to a conclusion similar to Health Canada's 10 risk assessment? 11 MS. PARFITT: Objection. 12 THE WITNESS: For any 13 chemical in any? I don't understand. 14 BY MR. HEGARTY: 15 Q. No. Let me restate the question. 16 With regard to Canada's risk 17 assessment on talc that came out in April of 2021, 18 have you looked for any other Canadian authorities 19 have cited to that or come to similar conclusions 20 as it relates to talcum powder products? 21 MS. PARFITT: Objection. 22 Form. 23 THE WITNESS: Well, there 24 would be no other Canadian authority that</p>	<p style="text-align: right;">Page 168</p> <p>1 where they can go and they'll put -- 2 that's what they have done with the -- 3 that's what they did back in 2007, I 4 believe, where they also talked about 5 putting it onto the labeling. 6 BY MR. HEGARTY: 7 Q. Is there a Canadian regulation that 8 defines the warning standard for cosmetics? 9 A. Not in the exact same way as in the 10 U.S. Do you want me to explain? 11 Q. Sure. 12 A. Because it's a long explanation 13 but -- 14 Q. Well, when you say "long 15 explanation," can you give me an estimate of how 16 long it will take? 17 A. It will take me a couple of minutes. 18 Q. Okay. Well, let me just -- let's 19 stick with my question. 20 A. Okay. 21 Q. Is there a Canadian regulation that 22 defines the standard for warning for cosmetics? 23 A. It does, but it's not the exact 24 same. It's not directly analogous to the U.S.,</p>
<p style="text-align: right;">Page 167</p> <p>1 would do this. You have to understand. 2 Health Canada is the FDA of Canada. So 3 just like in the U.S., if you're talking 4 talcum powder products, the regulatory 5 authority would be FDA, and there it is 6 Health Canada. 7 BY MR. HEGARTY: 8 Q. Do you consider yourself an expert 9 on the Canadian system for regulating cosmetics? 10 MS. PARFITT: Objection. 11 Form. 12 THE WITNESS: I do, yes. I 13 have dealt with that with my clients, and 14 that's one of the reasons that when I 15 talk to you about all dimension worldwide 16 authority, I do more than cosmetics just 17 in the U.S. 18 BY MR. HEGARTY: 19 Q. Under Canada's regulatory system, 20 can Health Canada require a warning on a cosmetic? 21 MS. PARFITT: Objection. 22 THE WITNESS: They can 23 through this type of rulemaking. So they 24 have to do these kinds of assessments</p>	<p style="text-align: right;">Page 169</p> <p>1 the way the regulations in the U.S. are laid out, 2 and that's what why I'm saying. I would need to 3 explain to you, but they do have a standard. It's 4 just not where I can go to, like I can to 740.1, 5 and find it so concisely stated. That's what I'm 6 telling you. 7 Q. What would be the regulation 8 citation where you would go to look? 9 A. So it would be looking at the law 10 first. So in Canada, under cosmetics, there is a 11 -- there's a food drug law. Then there's a 12 cosmetics regulation that was established back in 13 the 1980s. And within those, when you read them, 14 you will find there is a discussion of what the 15 standard is in terms of regulating the cosmetics. 16 They have very similar standard. 17 Premarket safety assessment. It has to be safe 18 before it's marketed. And they also require that 19 information be provided in the label that informs 20 the consumers of the hazards of the product. So 21 it's a hazard standard, just like it is in the 22 U.S. 23 But you don't get it in the same 24 way. Again, it's not as -- that's the problem is</p>

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<p style="text-align: right;">Page 170</p> <p>1 it's not as -- it's not laid out in quite the same 2 way because their regulatory system and their 3 regulations aren't laid out in the same way ours 4 are. 5       However, you can go and find 6 statements on their website for different 7 chemicals where they talk about the process. They 8 go through it, and it's exactly the same basic 9 process in terms of a hazard standard, a 10 possibility standard, not -- for cosmetics and 11 those types of ingredients, not like a drug 12 standard where there's -- they do risk-benefit 13 weighting there just like they do in the U.S. 14       Q. Is there a numerical -- is there a 15 regulation that you can cite to? 16       A. I can, but not off the top of my 17 head. So I have those in my files. If you're 18 interested in that, I'd have to pull. I have a 19 file at home on cosmetic regulations in Canada 20 and, yes, there's citations I can give you. 21       Q. Has Canada mandated an ovarian 22 cancer warning on talc for perineal use? 23       A. It's in the process of developing 24 their recommendations that will go onto the</p>	<p style="text-align: right;">Page 172</p> <p>1       MS. PARFITT: Objection. 2 Form. 3       THE WITNESS: They may. We 4 just don't know. That's what I'm saying 5 to you. I don't know yet. That's what 6 they're in the process of doing. 7       They also may ban it. It's 8 possible they could decide to ban it 9 for -- for use. 10       And then you also have the 11 issue of the product is no longer being 12 sold in Canada, just like it isn't being 13 sold here. So that may impact the 14 actions Canada takes as well. I don't 15 know. You'd have to talk to the 16 regulator to ask them that. 17 BY MR. HEGARTY: 18       Q. You agree, though, that the Health 19 Canada risk assessment is not just limited to body 20 powders, correct? 21       A. No. It discusses -- in fact, if you 22 read their website, it talks about all the 23 different places, other types of personal care 24 products -- and I realize I'm talking really</p>
<p style="text-align: right;">Page 171</p> <p>1 Hotlist. So there will be, I believe, just like 2 you see currently for the -- for the regulation, 3 the warnings that they're going to ask or the risk 4 mitigation processes that they're going to put in 5 place. And some of that is already on the Health 6 Canada's website. 7       So it's what Health Canada does 8 rather than what the company does, but I do 9 believe there's going to be something that will 10 happen. It just hasn't happened yet, and that's 11 because this risk assessment screening assessment 12 just came out, and it's going to take time. 13       And I think if you listened -- when 14 I went on and listened to that -- the reason I 15 went to that press release to listen to what they 16 were saying, they discuss that issue. How they 17 are -- there's going to be actions taken as far as 18 changes to the Hotlist for this particular issue, 19 and you'll notice that the consumer-facing page -- 20 in the last trial we showed that -- is different. 21       Q. So is it your understanding that the 22 Health Canada will actually mandate that talcum 23 powder products contain a warning about ovarian 24 cancer for perineal use?</p>	<p style="text-align: right;">Page 173</p> <p>1 fast -- that this could apply to, and so it's not 2 just body powders. That is correct. 3       Q. But from your understanding so far 4 as it relates to a manufacturer of a product 5 containing talcum powder products, there's been no 6 mandate or requirement to take any action, 7 correct? 8       MS. PARFITT: Objection. 9 Form. 10 BY MR. HEGARTY: 11       Q. From Health Canada. 12       MS. PARFITT: Objection. 13 Form. 14       THE WITNESS: At this point 15 in time, they have not mandated a 16 specific language for a label. That is 17 correct. They have put on notice 18 companies to understand what their 19 opinion is, but you're correct. 20       The next step is to see what 21 actions they will take for risk 22 mitigation. That's what they call it 23 there. That next step is risk 24 mitigation: labeling, banning from a</p>

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<p style="text-align: right;">Page 174</p> <p>1 product, limiting the percentage 2 potentially. There's a number of actions 3 they could take to mitigate the risk. 4 BY MR. HEGARTY: 5 Q. Have you ever published an article 6 where you referred to a safety assessment finding 7 by Health Canada? 8 MS. PARFITT: Objection. 9 Form. 10 THE WITNESS: I don't think 11 I've published an article, but I have 12 seen that in other peer-reviewed 13 publications where others that I know 14 or -- well, other articles I have seen 15 cite to Health Canada screening risk 16 assessments, yes. 17 BY MR. HEGARTY: 18 Q. Have you ever lectured to a medical 19 or scientific group where you have discussed 20 Canadian regulation of cosmetics? 21 A. Sorry. Your question? 22 Q. Sure. 23 Have you ever lectured to a medical 24 or scientific group where you have discussed</p>	<p style="text-align: right;">Page 176</p> <p>1 A. Not for -- 2 MS. PARFITT: Objection. 3 THE WITNESS: Not that I can 4 recall for a cosmetic for sure. Cosmetic 5 ingredients, possible. I'd have to think 6 back. I don't -- I don't recall 7 something off the top of my head, but I 8 have done that before for ingredients 9 that are used in cosmetics. 10 BY MR. HEGARTY: 11 Q. Have you ever advised clients about 12 Canadian regulations for warnings on a cosmetic? 13 MS. PARFITT: Objection. 14 Form. 15 THE WITNESS: In general 16 terms, yes. I've never told them what to 17 put on their product, but I -- for 18 example, some of the work that I do where 19 I told you I've been working with someone 20 who's an ingredient supplier, I deal with 21 Canadian compliance, EU compliance, U.S. 22 compliance, Japanese compliance, as well 23 as other worldwide authorities. 24 BY MR. HEGARTY:</p>
<p style="text-align: right;">Page 175</p> <p>1 Canadian regulation of cosmetics? 2 A. No. I have talked to students about 3 it, but not to a -- not like a presentation at a 4 scientific meeting. No, I have not done that. 5 Q. Have you ever interacted directly 6 with Health Canada regarding a cosmetic? 7 MS. PARFITT: Objection. 8 Form. 9 THE WITNESS: Not a finished 10 product, no, but ingredients that I know 11 can be used in cosmetics, yes. 12 BY MR. HEGARTY: 13 Q. Have you ever been involved in a 14 Health Canada safety assessment for any cosmetic 15 or cosmetic ingredient? 16 A. No, I have not been. By that I 17 would think you would -- you're meaning performing 18 the assessment or submitting comments? 19 Q. Right. 20 Any type of assessment that Health 21 Canada has done for a cosmetic or cosmetic 22 ingredient. Along the lines you just talked 23 about. Whether you provided materials. You 24 provided comment. You were some way involved.</p>	<p style="text-align: right;">Page 177</p> <p>1 Q. Did you assess for purposes of your 2 MDL report the strengths and weaknesses of the 3 Canadian final risk assessment -- 4 A. Yes. 5 Q. -- for talc? 6 A. For the amended report? 7 Q. Yes. 8 A. Yes, I did do that. 9 Q. What are the weaknesses? What 10 weaknesses did you find with regard to that final 11 risk assessment? 12 MS. PARFITT: Objection. 13 Form. 14 THE WITNESS: So I can't -- 15 I'm not going to -- I don't think I have 16 a particular weakness. 17 I actually found that the 18 assessment was consistent with the type 19 of assessment that I did and it was -- 20 appeared to be including all of the 21 relevant articles that I would expect to 22 see. 23 They discuss some limitations 24 of their own or weaknesses in their own</p>

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<p style="text-align: right;">Page 178</p> <p>1 assessment, and so maybe I would just</p> <p>2 point you to that.</p> <p>3 I mean, consistent with a high</p> <p>4 quality assessment, you should discuss</p> <p>5 like that that you did. In a regulatory</p> <p>6 body, you have to lay out your strengths</p> <p>7 and weaknesses for transparency purposes,</p> <p>8 and so it was there.</p> <p>9 I didn't find any particular</p> <p>10 weakness that I would point to say</p> <p>11 that there's a reason I would discount</p> <p>12 something they did, but certainly I did</p> <p>13 consider that when I looked at -- at it.</p> <p>14 MR. HEGARTY: Can we go ahead</p> <p>15 and take a quick break? We've been going</p> <p>16 a little while.</p> <p>17 MS. PARFITT: Yes.</p> <p>18 (Recess: 11:59 a.m. -</p> <p>19 12:15 p.m.)</p> <p>20 MR. HEGARTY: Back on the</p> <p>21 record.</p> <p>22 BY MR. HEGARTY:</p> <p>23 Q. Dr. Plunkett, the next paragraph I</p> <p>24 want to talk about is paragraph 72 of your report.</p>	<p style="text-align: right;">Page 180</p> <p>1 analysis that's pooling across studies of the same</p> <p>2 type. These are the cohort studies.</p> <p>3 And another I think an advantage to</p> <p>4 this study is they did look at the data in terms</p> <p>5 of people with a patent reproductive tract versus</p> <p>6 someone who doesn't have a reproductive tract that</p> <p>7 would enable talc to travel up the -- up towards</p> <p>8 the fallopian tubes or the ovaries. So that's</p> <p>9 definitely a strength of it.</p> <p>10 The weaknesses of this are similar</p> <p>11 to the weaknesses of some of the individual</p> <p>12 studies in that we, unfortunately, still have</p> <p>13 limited data on when people were exposed and for</p> <p>14 how long. Not for all the studies.</p> <p>15 We have some better data in some</p> <p>16 studies, but the Nurses' Health Study -- that's</p> <p>17 one of those studies that we can keep going back</p> <p>18 to that is a big part of this -- is a study that</p> <p>19 was not designed to look at the relationship</p> <p>20 between talc and ovarian cancer. And as a result,</p> <p>21 the question that was asked was asked at a time</p> <p>22 period and then that frequent -- that duration of</p> <p>23 exposure was never tied down.</p> <p>24 So those are the same kind of basic.</p>
<p style="text-align: right;">Page 179</p> <p>1 In this part of your report, you</p> <p>2 discuss the O'Brien study, correct?</p> <p>3 A. Yes, that's correct.</p> <p>4 Q. And what are the strengths and</p> <p>5 weaknesses of the O'Brien study, in your opinion?</p> <p>6 A. So the -- the strengths and</p> <p>7 weaknesses of the O'Brien study -- and if you want</p> <p>8 all of them, I'm going to need to pull it out, but</p> <p>9 essentially --</p> <p>10 MR. HEGARTY: I have a copy of</p> <p>11 the O'Brien study --</p> <p>12 THE WITNESS: Okay.</p> <p>13 MR. HEGARTY: -- that I'll</p> <p>14 mark as Exhibit No. 15.</p> <p>15 (Document marked for</p> <p>16 identification as Plunkett Exhibit 15.)</p> <p>17 MS. PARFITT: Thank you. Got</p> <p>18 it.</p> <p>19 THE WITNESS: Go ahead. I'm</p> <p>20 sorry.</p> <p>21 BY MR. HEGARTY:</p> <p>22 Q. I'm ready whenever you're ready.</p> <p>23 A. Yeah. Okay. So the strengths of</p> <p>24 the O'Brien study is that it is a -- it is an</p>	<p style="text-align: right;">Page 181</p> <p>1 The things that existed within the studies that</p> <p>2 are used in the analysis are still there. So</p> <p>3 those weaknesses are still there. It can't be</p> <p>4 corrected based upon the analysis they've done.</p> <p>5 But I think to me a strength of it</p> <p>6 is the fact that they did focus in on this issue</p> <p>7 of patent versus nonpatent reproductive tracts,</p> <p>8 and that's what I talk about a little bit. I</p> <p>9 think that's -- do I mention that? I think I talk</p> <p>10 about that in my -- in this paragraph that I added</p> <p>11 it.</p> <p>12 And I added this study in this</p> <p>13 paragraph just because this is new. So I did try</p> <p>14 to update with some of the newer. Because you</p> <p>15 know I mention -- I try to mention the available</p> <p>16 epidemiological data, and so that's why this was</p> <p>17 added.</p> <p>18 Q. Any other strengths and</p> <p>19 weaknesses --</p> <p>20 MS. PARFITT: Objection.</p> <p>21 BY MR. HEGARTY:</p> <p>22 Q. -- that we haven't talked about?</p> <p>23 A. No, and I would point you to the</p> <p>24 paper itself where they discuss their strengths</p>



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<p style="text-align: right;">Page 182</p> <p>1 and weaknesses there, and things I've said before</p> <p>2 generally about -- about some of the individual</p> <p>3 studies that are part of this.</p> <p>4 Q. Do you agree the O'Brien study was</p> <p>5 sufficiently powered to identify a 1.3 relative</p> <p>6 risk if it exists?</p> <p>7 MS. PARFITT: Objection.</p> <p>8 Form. For what? Patent, not patent?</p> <p>9 MR. HEGARTY: Between -- well,</p> <p>10 let me ask it. Let me rephrase it.</p> <p>11 BY MR. HEGARTY:</p> <p>12 Q. Do you agree that the O'Brien study</p> <p>13 was sufficiently powered to identify a 1.3</p> <p>14 relative risk between every use of body powder and</p> <p>15 ovarian cancer risk if it exists?</p> <p>16 MS. PARFITT: Are you speaking</p> <p>17 with regard to patent tubes?</p> <p>18 MR. HEGARTY: No. Just the</p> <p>19 overall conclusion of the study, just as</p> <p>20 I said in my -- inn my question.</p> <p>21 MS. PARFITT: Objection.</p> <p>22 THE WITNESS: I have formed</p> <p>23 the opinion that it was underpowered to</p> <p>24 do that or overpowered. I relied on what</p>	<p style="text-align: right;">Page 184</p> <p>1 conclusions.</p> <p>2 THE WITNESS: Can you ask it</p> <p>3 again?</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. Sure.</p> <p>6 A. Can you read the question again?</p> <p>7 Q. The conclusion and relevance in the</p> <p>8 paper itself says that:</p> <p>9 "In this analysis of pooled data</p> <p>10 from women in four U.S. cohorts, there was not a</p> <p>11 statistically significant association between use</p> <p>12 of powder in the genital area and incidence of</p> <p>13 ovarian cancer. However, the study may have been</p> <p>14 underpowered to identify a small increase in</p> <p>15 risk."</p> <p>16 Did I read that correctly?</p> <p>17 A. You did exactly.</p> <p>18 Q. Do you state that conclusion</p> <p>19 anywhere in your report?</p> <p>20 MS. PARFITT: Objection.</p> <p>21 Misstates not only her report, but the</p> <p>22 conclusions in the study and data in the</p> <p>23 study.</p> <p>24 THE WITNESS: So I don't -- I</p>
<p style="text-align: right;">Page 183</p> <p>1 the authors themselves said in terms of</p> <p>2 how they designed the study and what they</p> <p>3 looked at.</p> <p>4 So I don't have a criticism</p> <p>5 that it was -- that it was underpowered</p> <p>6 to do that. Although the biggest</p> <p>7 criticisms of these studies is that none</p> <p>8 of them were designed to look at it and,</p> <p>9 as a result, don't have sufficient</p> <p>10 information, in my view, on exposure to</p> <p>11 be able to say that you can definitively</p> <p>12 say whatever use or -- ever use versus</p> <p>13 never use really was in the individuals</p> <p>14 and how long that went on.</p> <p>15 BY MR. HEGARTY:</p> <p>16 Q. You're referring in this part of</p> <p>17 your report to the subgroup analysis on women with</p> <p>18 patent tubes.</p> <p>19 You agree that the O'Brien study</p> <p>20 came to an overall conclusion with regard to body</p> <p>21 powder use in the genital area in the incidence of</p> <p>22 ovarian cancer, correct?</p> <p>23 MS. PARFITT: Objection.</p> <p>24 Misstates the article and the</p>	<p style="text-align: right;">Page 185</p> <p>1 do not quote the sentences, if that's</p> <p>2 what you're asking me. I think that's</p> <p>3 what you're asking me.</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. Well --</p> <p>6 A. But I do think -- go ahead.</p> <p>7 Q. I don't -- let me just restate my</p> <p>8 question. We don't -- don't get off-track. I'm</p> <p>9 not asking whether you quoted it.</p> <p>10 I'm asking: Do you include the</p> <p>11 conclusion or reference to the conclusion about</p> <p>12 there not being "a statistically significant</p> <p>13 association between use of powder in the genital</p> <p>14 area and the incidence of ovarian cancer," that</p> <p>15 part of the report anywhere in your MDL report?</p> <p>16 MS. PARFITT: Objection.</p> <p>17 Form.</p> <p>18 THE WITNESS: Well, I think I</p> <p>19 do in my report. I mean, I -- I'm</p> <p>20 looking at the exact language I used in</p> <p>21 my report about this study, but I think</p> <p>22 if you read what I have -- what I have</p> <p>23 written about the study and then read the</p> <p>24 the quote I did pull out.</p>

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<p style="text-align: right;">Page 186</p> <p>1 Because there were some</p> <p>2 criticisms or some comments or letters to</p> <p>3 the editor about the study where O'Brien</p> <p>4 actually responds to questions asked</p> <p>5 about the fact that there may have been a</p> <p>6 lack of statistical significance within</p> <p>7 some parts of the study in terms of what</p> <p>8 was found.</p> <p>9 But to me, as I have stated, I</p> <p>10 think the study shows that there, indeed,</p> <p>11 is within the women with a patent</p> <p>12 reproductive tract a statistically</p> <p>13 significant increased finding.</p> <p>14 I don't know what else to tell</p> <p>15 you. I'd say I'd refer you to my</p> <p>16 paragraph where I attempted to, I think,</p> <p>17 give an accurate reflection of what the</p> <p>18 study is.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. If you turn over to the Discussion</p> <p>21 section on page 56, do you agree with the</p> <p>22 statement, the first statement that "In this</p> <p>23 pooled analysis of four large U.S. cohorts, there</p> <p>24 was no statistically significant association</p>	<p style="text-align: right;">Page 188</p> <p>1 without regard to the -- would apply to the</p> <p>2 overall look at the cases and controls --</p> <p>3 MS. PARFITT: Objection.</p> <p>4 Form.</p> <p>5 BY MR. HEGARTY:</p> <p>6 Q. -- as opposed to looking at a</p> <p>7 subgroup analysis?</p> <p>8 MS. PARFITT: Objection.</p> <p>9 Form. Misstates the data.</p> <p>10 BY MR. HEGARTY:</p> <p>11 Q. You can answer.</p> <p>12 MS. PARFITT: And study</p> <p>13 results. Go ahead.</p> <p>14 THE WITNESS: Okay.</p> <p>15 So, again, I think the best</p> <p>16 way to answer that is to point you to</p> <p>17 what Dr. O'Brien herself says or himself</p> <p>18 says -- it's a her I think -- says about</p> <p>19 it in response to Dr. Harlow.</p> <p>20 Because I think she's pointing</p> <p>21 out that the data is consistent with</p> <p>22 the -- with their hypothesis. The data</p> <p>23 they have is consistent with the</p> <p>24 hypothesis and it doesn't say that</p>
<p style="text-align: right;">Page 187</p> <p>1 between self-reported use of powder in the genital</p> <p>2 area and risk of ovarian cancer"?</p> <p>3 MS. PARFITT: Objection.</p> <p>4 Asked and answered. She said that's what</p> <p>5 it says, but she did not say she agreed.</p> <p>6 BY MR. HEGARTY:</p> <p>7 Q. Do you agree that that's -- that</p> <p>8 sentence describes what the study found?</p> <p>9 MS. PARFITT: Objection.</p> <p>10 Misstates the study results and data.</p> <p>11 BY MR. HEGARTY:</p> <p>12 Q. You can answer.</p> <p>13 A. So I -- my first answer was going to</p> <p>14 be, you have read that correctly. I agree that</p> <p>15 that statement is there.</p> <p>16 But as I have stated in my -- in my</p> <p>17 report, I believe that there is statistically</p> <p>18 significant findings that inform on this</p> <p>19 association between use of genital talc and risk</p> <p>20 of ovarian cancer.</p> <p>21 But I don't disagree with you that</p> <p>22 that's -- this sentence is absolutely there. I</p> <p>23 see that sentence.</p> <p>24 Q. Does that sentence accurately apply</p>	<p style="text-align: right;">Page 189</p> <p>1 there's no risk.</p> <p>2 But I don't disagree with you.</p> <p>3 They have described it with that</p> <p>4 sentence. I agree that's there.</p> <p>5 I think, however, the study</p> <p>6 provides important evidence that adds to</p> <p>7 the weight of the evidence that there,</p> <p>8 indeed, is a repeated signal, repeated</p> <p>9 finding of an increased risk of ovarian</p> <p>10 cancer in women that use talc genitally.</p> <p>11 BY MR. HEGARTY:</p> <p>12 Q. Do you agree with the next sentence</p> <p>13 in that section that we're looking at as a finding</p> <p>14 from this study that "There was no clear</p> <p>15 dose-response transfer duration and frequency of</p> <p>16 powder use in the genital area in relation to</p> <p>17 ovarian cancer risk"?</p> <p>18 MS. PARFITT: Objection.</p> <p>19 Misstates the data.</p> <p>20 THE WITNESS: So I agree that</p> <p>21 you have read that correctly, and I would</p> <p>22 say in response to that that I don't</p> <p>23 think that's an accurate reflection of</p> <p>24 the weaknesses of the study.</p>

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<p style="text-align: right;">Page 190</p> <p>1 In other words, I've already 2 told you that they themselves talk about 3 the fact that they don't have the data on 4 frequency and duration on all of them. 5 So if they don't have it, obviously then 6 you're not going to be able to find it, 7 right? 8 So I think I understand why 9 they have written this sentence, but I 10 think there if you go further into the 11 paper, they actually talk about these 12 particular issues about the fact that 13 they don't -- they don't have that 14 information on duration. 15 BY MR. HEGARTY: 16 Q. With regard to the subgroup analysis 17 on women with patent and nonpatent tubes, does the 18 paper identify data on the age of the women at the 19 time they had the tubal ligation or where their 20 tubes became nonpatent? 21 MS. PARFITT: Objection. 22 Form. 23 THE WITNESS: I don't believe 24 it does, but let me look if they were</p>	<p style="text-align: right;">Page 192</p> <p>1 that are in the study, but I don't know. 2 They don't -- they don't comment on that. 3 So I can't answer that. I can't answer 4 that for you. 5 BY MR. HEGARTY: 6 Q. Does the paper identify the extent 7 of exposure to talcum or body powder at the time 8 they had the tubal ligation or other procedure 9 where their tubes became nonpatent? 10 A. In answer to that, I'd have to dig 11 into their records. I don't know. I don't recall 12 that being stated in here, but I don't. You want 13 me to read it and look? I can't answer that 14 without looking. 15 Q. Well, do you recall sitting here 16 today one way or the other? 17 A. I don't recall looking for that 18 information. So I don't recall that, no. 19 Q. Did women who had nonpatent tubes 20 have enough exposure to baby powder prior to their 21 tubes becoming nonpatent to increase their risk of 22 ovarian cancer, in your opinion? 23 MS. PARFITT: Objection. 24 THE WITNESS: I haven't</p>
<p style="text-align: right;">Page 191</p> <p>1 able to get that. 2 (Reviews document.) 3 I don't believe they had that 4 information because I think they're 5 saying here that it was not recorded. So 6 they don't have that information for 7 everything. 8 Is that what you're asking me? 9 BY MR. HEGARTY: 10 Q. Yes. 11 A. If it was done post their entry into 12 the study. So if they had -- they had -- they 13 have that data for individuals as they enter the 14 study, but are you asking me -- but they don't 15 have complete information based on what they're 16 saying here. 17 Is that what you're asking me? 18 Q. My question: Does it identify the 19 age at which the women -- women's tubes became 20 nonpatent as to that group? 21 MS. PARFITT: Objection. 22 Form. 23 THE WITNESS: I imagine you 24 could get that if you went to the records</p>	<p style="text-align: right;">Page 193</p> <p>1 formed that opinion one way or the other. 2 BY MR. HEGARTY: 3 Q. Does the paper identify the 4 difference in exposure history to talcum or body 5 powder between the women with and without a tubal 6 ligation at the time they had the procedure where 7 their tubes became nonpatent? 8 A. I'll have to look to answer that 9 question. I didn't attempt to look for the answer 10 to that question when I was reviewing the paper. 11 Q. Did you review the editorial comment 12 by Gossett published at the time of O'Brien? 13 A. Was it -- if it was within the 14 comments at the same time that Harlow's comments 15 were given -- I think there were several -- then I 16 may have. If it's in a different edition or a 17 different -- if it's in a different time, then I 18 don't know. I'd have to see it. 19 MR. HEGARTY: Let me mark as 20 Exhibit No. 16 the Gossett -- 21 MS. PARFITT: Thank you. 22 MR. HEGARTY: -- editorial 23 that was published in JAMA January 7, 24 2020.</p>

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<p style="text-align: right;">Page 194</p> <p>1 (Document marked for 2 identification as Plunkett Exhibit 16.) 3 BY MR. HEGARTY: 4 Q. Can you tell me whether you had 5 reviewed this at the same time you reviewed the 6 O'Brien study? 7 A. I will try to answer that for you. 8 I'm looking at something that I can find in my -- 9 (reviews document.) 10 I believe I've seen this before. I 11 don't know that it -- this was not part of the -- 12 the letters to the editor. So this is a different 13 document. So I believe this was published maybe 14 not in the same -- I don't know if it's published 15 in the same one. Let me look and see. 16 Q. It was published in the -- 17 A. That's what I -- 18 Q. -- same volume as the O'Brien 19 article? 20 A. Right. But it was not -- it was not 21 something that was in the back like the Harlow 22 comments is what I'm saying. 23 Q. Correct. 24 A. Yes, exactly. So I have seen this</p>	<p style="text-align: right;">Page 196</p> <p>1 personal knowledge of any of that. 2 Q. Do you have any criticisms of 3 Exhibit No. 16? 4 MS. PARFITT: Objection. 5 Form. 6 THE WITNESS: I haven't 7 formed an opinion based on this document 8 at this point in time. 9 BY MR. HEGARTY: 10 Q. If you look over at Exhibit No. 16 11 page 30? 12 A. Okay. I'm there. 13 Q. The first full paragraph beginning 14 with the word "Given." 15 Do you see that paragraph? 16 A. Yes. 17 Q. This paragraph relates to the 18 subject area of patent tubes, and it says: 19 "Given this punitive mechanism of 20 exposure, the subgroup analysis of women with 21 patent reproductive tracts is of particular 22 interest. However, it is not possible to equate a 23 patent reproductive tract with exposure in a 24 nonpatent reproductive tract with non-exposure."</p>
<p style="text-align: right;">Page 195</p> <p>1 before, yes. If that's what you're asking me? 2 Q. Yes. 3 And did you -- 4 A. Yes, I have seen it before. 5 Q. I saw it -- strike that. 6 My review of your amended report 7 doesn't show that you reference this Gossett 8 editorial; is that correct? 9 A. I do not reference this in the -- in 10 the body of my report. That is correct. 11 Q. But you had read it at the time that 12 you prepared your amended report, correct? 13 A. I read it when I retrieved the 14 information on the O'Brien article, yes. I can't 15 tell you exactly when I read it, but I did, yes. 16 Q. Do you know Dr. Gossett? 17 A. No, I don't believe I do. 18 Q. Do you know Dr. del Carmen? 19 A. No, I do not. 20 Q. Do you know their qualifications? 21 A. Only by what they list here. 22 Q. Okay. 23 A. I could tell you based on the paper, 24 but I don't know them specifically. I have no</p>	<p style="text-align: right;">Page 197</p> <p>1 Do you agree with that sentence? 2 MS. PARFITT: Objection. 3 Dr. Plunkett has indicated that she not 4 only did not cite this as a reference, 5 but had not digested the article and had 6 no opinions with regard to its context. 7 THE WITNESS: Well, I mean, 8 I've seen -- you have read that statement 9 correctly. I see it. 10 BY MR. HEGARTY: 11 Q. Do you agree with that statement? 12 A. That -- are you asking me do I agree 13 with whether or not you can't equate the two 14 generally or are you asking me about -- 15 Q. Yes. 16 A. -- their study? 17 Q. I am asking you: It is not possible 18 -- is it correct that it is not possible in this 19 study to equate a patent reproductive tract with 20 exposure and a nonpatent reproductive tract with 21 non-exposure? 22 MS. PARFITT: Objection. 23 THE WITNESS: I think that 24 would be highly dependent on the</p>

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<p style="text-align: right;">Page 198</p> <p>1 information you had. I think it's -- I</p> <p>2 certainly think the patent versus</p> <p>3 nonpatent is important in terms of</p> <p>4 biologic mechanism that we believe it has</p> <p>5 to get there, but I don't -- I don't know</p> <p>6 that I can answer that -- that question</p> <p>7 that I agree or disagree simply because I</p> <p>8 think there's more to it than that.</p> <p>9 The sentence is not saying --</p> <p>10 I don't think it's saying quite how</p> <p>11 you're -- you're stating it. I think</p> <p>12 it's -- I think he's -- I think it's you</p> <p>13 have to read that in conjunction with the</p> <p>14 rest that's in the paragraph.</p> <p>15 BY MR. HEGARTY:</p> <p>16 Q. Well, the next sentence says:</p> <p>17 "Women who undergo tubal ligation or</p> <p>18 hysterectomy (nonpatent) and use powders in the</p> <p>19 genital area cannot be assumed to have started</p> <p>20 using them only after their surgeries."</p> <p>21 Do you agree with that statement?</p> <p>22 MS. PARFITT: Objection.</p> <p>23 Form.</p> <p>24 THE WITNESS: I haven't</p>	<p style="text-align: right;">Page 200</p> <p>1 group with nonpatent tubes, you find that there</p> <p>2 are no statistical difference between the two,</p> <p>3 correct?</p> <p>4 MS. PARFITT: Objection.</p> <p>5 Misstates her testimony.</p> <p>6 THE WITNESS: I agree -- if</p> <p>7 you're asking me do I agree that that is</p> <p>8 written there? I absolutely do.</p> <p>9 What I'm saying to you is, I</p> <p>10 disagree that that's what the authors</p> <p>11 themselves feel about their data. That's</p> <p>12 all I'm saying to you.</p> <p>13 I think that they're saying if</p> <p>14 you read what -- read this response to</p> <p>15 Dr. Harlow, they talk about it. They</p> <p>16 talk about what their findings are.</p> <p>17 They talk about the fact that</p> <p>18 the findings are not -- may not all be</p> <p>19 equally important and that there was,</p> <p>20 indeed, the positive association is</p> <p>21 consistent with the hypothesis that</p> <p>22 there's an association, which is</p> <p>23 different than using this study to draw</p> <p>24 an overall conclusion.</p>
<p style="text-align: right;">Page 199</p> <p>1 looked at their data. So I can't --</p> <p>2 that's why I said to you. I'd have to go</p> <p>3 look at the data to know if they have</p> <p>4 that or not. I can't answer that.</p> <p>5 BY MR. HEGARTY:</p> <p>6 Q. If you continue down in that</p> <p>7 paragraph, it says:</p> <p>8 "The fact that there are no</p> <p>9 significant differences in the HRs in the patent</p> <p>10 and nonpatent groups where they list HR 1.13 and</p> <p>11 HR .99, P value for heterogeneity comparing these</p> <p>12 subgroups of .15 confirms the overall conclusion</p> <p>13 that there is no demonstrable statistically</p> <p>14 significant association between use of powder in</p> <p>15 the genital area and ovarian cancer risk."</p> <p>16 Do you see the sentence I'm reading</p> <p>17 from?</p> <p>18 A. You've read that correctly, and I</p> <p>19 disagree based on what they -- the authors</p> <p>20 themselves say about -- about their findings on</p> <p>21 page 53 of my report.</p> <p>22 Q. Well, that sentence is saying that</p> <p>23 if you do a test for heterogeneity between the HRs</p> <p>24 for the group with patent tubes and the HR for the</p>	<p style="text-align: right;">Page 201</p> <p>1 I don't think the authors are</p> <p>2 doing that. I don't do that. No one</p> <p>3 should do that. You should look across</p> <p>4 all the data.</p> <p>5 BY MR. HEGARTY:</p> <p>6 Q. Do you agree a P value for</p> <p>7 heterogeneity of .15 means that there is no</p> <p>8 heterogeneity between the groups?</p> <p>9 MS. PARFITT: Objection.</p> <p>10 Misstates the article. Misstates the</p> <p>11 science. Misstates --</p> <p>12 BY MR. HEGARTY:</p> <p>13 Q. You can answer.</p> <p>14 MS. PARFITT: -- her</p> <p>15 testimony.</p> <p>16 THE WITNESS: If you're</p> <p>17 asking me simply as a general premise, if</p> <p>18 you had a P value of .15, what conclusion</p> <p>19 would you draw? Is that what you're</p> <p>20 asking me?</p> <p>21 BY MR. HEGARTY:</p> <p>22 Q. Yes.</p> <p>23 A. Okay. By that, I would say that I</p> <p>24 have seen that conclusion drawn with those types</p>

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<p>1 of values.</p> <p>2 I'm saying to you, however, that's a</p> <p>3 different question than what the actual -- the</p> <p>4 actual authors draw about the conclusions --</p> <p>5 Q. Right.</p> <p>6 A. -- of their study.</p> <p>7 Q. And my question is simply as a</p> <p>8 matter of epidemiological statistical analysis.</p> <p>9 And you're familiar with statistical</p> <p>10 analysis for epidemiologic studies, correct?</p> <p>11 A. Yes, I am.</p> <p>12 Q. And you agree when you compare two</p> <p>13 HRs statistically and there is a test for</p> <p>14 heterogeneity that comes out that's not</p> <p>15 statistically significant, you can't say the two</p> <p>16 values are different --</p> <p>17 MS. PARFITT: Objection.</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. -- correct?</p> <p>20 MS. PARFITT: Objection.</p> <p>21 Misstates her testimony.</p> <p>22 THE WITNESS: So I think that</p> <p>23 depends. I mean, on that question, if</p> <p>24 you want to go that specific to -- to</p>	<p>1 highlighted by the statistically unsophisticated</p> <p>2 reader as evidence of a relationship."</p> <p>3 Did I read that correctly?</p> <p>4 A. I'm looking where you are. I</p> <p>5 apologize. I lost you. So...</p> <p>6 Q. All right.</p> <p>7 A. Oh, here it is. Okay. I'm sorry.</p> <p>8 You did read that correctly. Yes, I</p> <p>9 do see that line.</p> <p>10 Q. Okay. Do you agree with that</p> <p>11 statement?</p> <p>12 MS. PARFITT: Objection.</p> <p>13 Misstates her testimony.</p> <p>14 THE WITNESS: I haven't</p> <p>15 formed an opinion one way or the other on</p> <p>16 this statement. As I told you, I have</p> <p>17 not formed any opinions on this paper at</p> <p>18 this point in time.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. And why was it that you chose not to</p> <p>21 cite the Gossett study within your amended MDL</p> <p>22 report?</p> <p>23 MS. PARFITT: Objection.</p> <p>24 Form.</p>
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<p>1 this data, I would point to the</p> <p>2 epidemiologists in these cases, which are</p> <p>3 going to deal with these issues.</p> <p>4 I'm just -- I answered the</p> <p>5 general premise question to you to tell</p> <p>6 you my experience. I understand what</p> <p>7 these tests are used for. So as a</p> <p>8 general premise, I can see that done.</p> <p>9 I am saying to you, however,</p> <p>10 that I don't think it's a simplistic</p> <p>11 saying that that one value is what should</p> <p>12 drive your overall conclusions for the</p> <p>13 study, and I think that's what is</p> <p>14 consistent with what the authors</p> <p>15 themselves are saying.</p> <p>16 BY MR. HEGARTY:</p> <p>17 Q. If we continue in that paragraph, it</p> <p>18 says:</p> <p>19 "The subgroup analysis suggesting</p> <p>20 that women with intact reproductive tracts who use</p> <p>21 powder in the perineal area developed ovarian</p> <p>22 cancer more frequently than nonusers is below the</p> <p>23 effect size that epidemiologists generally</p> <p>24 consider important and should not be selectively</p>	<p>1 THE WITNESS: No particular</p> <p>2 reason where I -- I can't tell you that I</p> <p>3 have a particular reason for this was not</p> <p>4 cited. I can tell you what I did cite,</p> <p>5 which is what I believe to be</p> <p>6 appropriate, which would be the authors'</p> <p>7 own conclusions about their own findings.</p> <p>8 And, again, it's -- it's how</p> <p>9 when you do weight of the evidence, you</p> <p>10 look at each individual piece of</p> <p>11 information on its own and draw</p> <p>12 conclusions based upon what that author</p> <p>13 says about their own work.</p> <p>14 And then you put that into an</p> <p>15 analysis of what I as a scientist --</p> <p>16 conclusions I will draw or would draw</p> <p>17 based upon what I see in that -- in that</p> <p>18 data.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. You don't know whether any of the</p> <p>21 plaintiffs that were -- that were -- that are part</p> <p>22 of the cases we're looking at, the MDL plaintiffs</p> <p>23 or the Swann plaintiffs have patent or nonpatent</p> <p>24 tubes, do you?</p>

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<p>1 MS. PARFITT: Objection. It's</p> <p>2 a case-specific question and Dr. Plunkett</p> <p>3 is not here to give opinions on</p> <p>4 case-specific issues.</p> <p>5 THE WITNESS: I am -- I'm not</p> <p>6 case-specific.</p> <p>7 MS. PARFITT: Objection.</p> <p>8 THE WITNESS: So I can't</p> <p>9 answer that question for any of the</p> <p>10 individual plaintiffs in this case.</p> <p>11 BY MR. HEGARTY:</p> <p>12 Q. If you would turn next to paragraph</p> <p>13 75 in your report.</p> <p>14 In that paragraph, you talk about</p> <p>15 the Taher study, correct?</p> <p>16 A. Somewhere here I think I do. Are</p> <p>17 you -- are you -- you're further back in time,</p> <p>18 though. You're paragraph 104?</p> <p>19 MS. PARFITT: Paragraph 75.</p> <p>20 BY MR. HEGARTY:</p> <p>21 Q. I'm sorry. Paragraph 75.</p> <p>22 A. 75. Oh, I'm sorry.</p> <p>23 Q. Toward the end, you include an</p> <p>24 analysis in this paragraph about the Taher study,</p>	<p>1 MS. PARFITT: Objection.</p> <p>2 Form. Broad.</p> <p>3 THE WITNESS: I don't know</p> <p>4 quite what you mean by --</p> <p>5 MS. PARFITT: The analysis?</p> <p>6 THE WITNESS: I don't know</p> <p>7 quite what you mean, other than I think I</p> <p>8 can tell you that I did cite to it. It's</p> <p>9 part of my weight of the evidence.</p> <p>10 Are you asking me something</p> <p>11 else?</p> <p>12 BY MR. HEGARTY:</p> <p>13 Q. Well, do you agree with the way that</p> <p>14 Taher analyzed the data to come to its</p> <p>15 conclusions?</p> <p>16 MS. PARFITT: Objection.</p> <p>17 Form.</p> <p>18 THE WITNESS: Well, I don't</p> <p>19 disagree with his method.</p> <p>20 BY MR. HEGARTY:</p> <p>21 Q. Okay.</p> <p>22 A. I mean, he's done a different. I</p> <p>23 mean, I'm very familiar who this group is. I</p> <p>24 actually know Dr. Krewski, Dr. Krishnan, and</p>
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<p>1 correct?</p> <p>2 A. Yes, I do. I talk about it down</p> <p>3 here.</p> <p>4 MR. HEGARTY: I'll mark as</p> <p>5 Exhibit 17 the Taher paper.</p> <p>6 (Document marked for</p> <p>7 identification purposes as Plunkett</p> <p>8 Exhibit 17.)</p> <p>9 BY MR. HEGARTY:</p> <p>10 Q. First of all, Health Canada relied</p> <p>11 on this paper as part of the making its risk</p> <p>12 assessment, correct?</p> <p>13 MS. PARFITT: Objection.</p> <p>14 Form.</p> <p>15 THE WITNESS: It certainly</p> <p>16 referred to this paper as part of the</p> <p>17 work that they did, yes. They made</p> <p>18 their -- Health Canada took this and then</p> <p>19 they -- they developed their own</p> <p>20 screening assessment outside of just this</p> <p>21 paper.</p> <p>22 BY MR. HEGARTY:</p> <p>23 Q. Do you agree with the Taher analysis</p> <p>24 as set out in Exhibit No. 17?</p>	<p>1 Dr. Madison to some extent. I know this group. I</p> <p>2 know their reputation. So absolutely when I read</p> <p>3 it, I wasn't -- I expected, as I did see, was I do</p> <p>4 see a quality assessment in terms of what they've</p> <p>5 gone through, but it's, you know, it is a piece of</p> <p>6 evidence on its own.</p> <p>7 It's not the only piece of evidence</p> <p>8 that I think I or Health Canada, if you look at</p> <p>9 what they did, relied upon.</p> <p>10 Q. Do you agree with the conclusions</p> <p>11 that the authors reached in the Taher paper?</p> <p>12 MS. PARFITT: Objection. Is</p> <p>13 there a specific question? Specific</p> <p>14 conclusion? It is a multiple page study.</p> <p>15 THE WITNESS: So in this --</p> <p>16 in the MDL, first off, I'm not providing</p> <p>17 a causation analysis, right?</p> <p>18 But certainly I see his -- are</p> <p>19 you asking me about his conclusion that</p> <p>20 perineal use of talc is a possible</p> <p>21 cause --</p> <p>22 BY MR. HEGARTY:</p> <p>23 Q. Correct.</p> <p>24 A. -- of humans?</p>



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<p>1 I think you should know, based on</p> <p>2 testimony I've given in other cases, that I</p> <p>3 believe perineal talc use can cause ovarian cancer</p> <p>4 in women, yes. So that, I guess, we agree with</p> <p>5 the fact that there is a causal connection, but</p> <p>6 I'm not in the MDL providing a causation opinion.</p> <p>7 Q. And the same is true for the Swann</p> <p>8 case?</p> <p>9 A. If it's part of the MDL or not?</p> <p>10 It's a separate case?</p> <p>11 Q. Swann is the state court, Missouri</p> <p>12 case.</p> <p>13 A. Oh, I'm not doing general causation,</p> <p>14 no.</p> <p>15 Q. Okay.</p> <p>16 A. So unless you've been told I'm doing</p> <p>17 general cause, which I don't think you've been</p> <p>18 told that, then, no.</p> <p>19 Q. What are the strengths and</p> <p>20 weaknesses of the Taher article I've marked as</p> <p>21 Exhibit No. 17?</p> <p>22 MS. PARFITT: Objection.</p> <p>23 Form. Broad.</p> <p>24 THE WITNESS: So -- well,</p>	<p>1 you have to deal with the limitations on</p> <p>2 the data you have, and I think they talk</p> <p>3 about there's some, you know, some things</p> <p>4 would be nice.</p> <p>5 Like in the cohort studies, it</p> <p>6 would have been really nice if we had</p> <p>7 complete exposure information, which we</p> <p>8 don't have. Things like that.</p> <p>9 But I think the strengths of</p> <p>10 this is, they did a detailed weight of</p> <p>11 the evidence, and it's very transparent</p> <p>12 for you. They lay it out in detail.</p> <p>13 BY MR. HEGARTY:</p> <p>14 Q. You said you know this group.</p> <p>15 What do you know about some of these</p> <p>16 folks in this group?</p> <p>17 A. So I published with Dr. Krewski on</p> <p>18 my public -- on my -- my list of publications,</p> <p>19 you'll see I have a copper puff paper. So I have</p> <p>20 met with him, worked with him one-on-one on</p> <p>21 projects. And Dr. Krewski may be the last author</p> <p>22 in this paper, but, boy, he is always a driver</p> <p>23 between anything -- in anything he works on.</p> <p>24 So I, you know, it is -- it is an</p>
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<p>1 like all the papers that I look at,</p> <p>2 luckily they give you a description of --</p> <p>3 of what -- what the strengths and</p> <p>4 weaknesses are of the data they looked at</p> <p>5 as individual pieces.</p> <p>6 You know, they do provide --</p> <p>7 in fact, Dr. -- I mean, my earlier depo,</p> <p>8 Ms. Branscome went through this issue</p> <p>9 with me. She asked me questions about</p> <p>10 the Klimisch scoring. She asked me</p> <p>11 questions about all of that in here.</p> <p>12 I think I told her that what I</p> <p>13 see here is consistent with a weight of</p> <p>14 the evidence like I've done, it's just</p> <p>15 they've laid it out in a different way.</p> <p>16 But I don't know how else to answer.</p> <p>17 So the strength would be that</p> <p>18 it's consistent with general methodology</p> <p>19 used when you're doing a weight of the</p> <p>20 evidence. Strength is that I know these</p> <p>21 people. I know they're a high quality</p> <p>22 group.</p> <p>23 And then a weakness of any</p> <p>24 publication is -- is that you can only --</p>	<p>1 issue of, I know the McLaughlin Centre for</p> <p>2 Population Health Risk Assessment, which is where</p> <p>3 Dan Krewski is.</p> <p>4 And Dr. Taher I don't know</p> <p>5 personally, but all of the people that I've ever</p> <p>6 known that came out of his what I call group or</p> <p>7 his oversight are good quality risk assessors.</p> <p>8 Q. You make reference in this paragraph</p> <p>9 to two papers by Wu.</p> <p>10 Why did you add the two papers by Wu</p> <p>11 to this paragraph?</p> <p>12 A. You're in paragraph?</p> <p>13 Q. Same paragraph.</p> <p>14 A. Oh, I'm sorry.</p> <p>15 Q. 75.</p> <p>16 A. I think they were always in my</p> <p>17 reliance list, if I remember correctly, but I'm</p> <p>18 giving you ones that the 2006 panel did not have.</p> <p>19 So if you read starting on page 55, I said it</p> <p>20 should be noted that the 2006 IARC did not have</p> <p>21 access to reports, and the Wu's are listed.</p> <p>22 So what I did here in this report is</p> <p>23 go ahead and give you a description of what each</p> <p>24 of those are. It really was mainly for my</p>

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<p style="text-align: right;">Page 214</p> <p>1 benefit. So if you asked me in a deposition I can 2 remember who Wu was based upon. But I just tried 3 to tell you what it was that they did generally 4 and lay it out as evidence that was not considered 5 by IARC, showing that there has been an 6 accumulation of evidence post-IARC. 7 Q. You made reference to what the IARC 8 group did not have in front of it. You mentioned 9 the Wu paper. 10 But IARC also did not have in front 11 of it the Gates 2010 paper, the Houghton 2014 12 paper, and the Gonzalez 2016 paper, correct? 13 A. That is correct. Anything that came 14 after 2006 would not have been included in that 15 assessment. 16 Q. But in your report, you don't make 17 reference to the IARC group not having those 18 studies either, correct? 19 A. That is correct. I do not. 20 Q. Why didn't you do that? 21 A. No particular reason to not include 22 them. It's just that these are -- I'm citing for 23 you the evidence that I think is additional 24 information for the weight of the evidence.</p>	<p style="text-align: right;">Page 216</p> <p>1 Q. How about since you left ENVIRON? 2 A. Probably not, no. 3 Q. And how -- in what way did you deal 4 directly with PCPC when you were at ENVIRON? 5 A. So we worked on projects where PCPC 6 were in meetings with clients of ours that, you 7 know, we would have a meeting with a client. PCPC 8 would also be in the meeting. I don't know that 9 we only ever worked for the PCPC, but certainly we 10 did work on issues that involved the client as 11 well as the PCPC. 12 Q. The next paragraph, number 90, you 13 also added; is that correct? 14 A. Yes, that's correct. 15 Q. And why did you add that paragraph? 16 A. Again, I think this would be 17 consistent with additional documents that I either 18 discussed at trial testimony -- during trial 19 testimony or -- and so I was trying to give a 20 little more detail in terms of some of the 21 additional evidence or themes that had been 22 developed since my initial MDL report. 23 Q. At the beginning of that paragraph, 24 you say, you make the statement:</p>
<p style="text-align: right;">Page 215</p> <p>1 In other words, these are studies 2 that add to that weight showing that there is a 3 statistically significant increased risk in human 4 populations that have been looked at. It's not to 5 say that there aren't studies that don't show a 6 statistically significant increased risk, but 7 these studies do. 8 Q. The next paragraph I want to look at 9 is paragraph 89 of your report. 10 This is a new paragraph; is that 11 correct? 12 A. Yes, this was a new document that I 13 had -- new -- new documents in terms of opinions 14 expressed. I believe they were brought out either 15 from depositions that I read, and I think that's 16 where I got these from. These may be old 17 documents in terms of time, but documents that 18 were discussed in either later testimony or other 19 things that occurred after I wrote my report in 20 terms of my trial testimony. 21 Q. Have you ever dealt directly with 22 the PCPC? 23 A. Yes, I have, when I worked at 24 ENVIRON.</p>	<p style="text-align: right;">Page 217</p> <p>1 "The influence of industry on FDA 2 actions." 3 What do you mean by that phrase 4 "influence of industry"? 5 A. It's -- well, it's the evidence 6 showing that when -- when it came to interactions 7 on the issues related to talc, industry being 8 either through the PCPC or industry themselves, 9 people from Imerys or people from J&amp;J, were having 10 direct interactions with FDA staff. 11 And in my view, if you read the 12 documents where they describe the actions being 13 taken and the relationship -- some of those we've 14 talked about at trials -- it's the idea that -- in 15 fact, in the last trial, we talked about Johnson &amp; 16 Johnson employees talking about -- and the Imerys 17 employees talking about John Bailey being the 18 person at FDA to carry their water. It's those 19 issues. 20 It's the idea of the fact that, in 21 my view, there was influence that I don't think, 22 in my view, was -- was appropriate in terms of 23 what I would tell my clients to do in their 24 interactions with -- with the FDA.</p>

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<p style="text-align: right;">Page 218</p> <p>1 And many FDA employees -- well, the</p> <p>2 two people that work for me right now or work with</p> <p>3 me right now -- will talk to you about the ethics</p> <p>4 at FDA, and that's different than what we're</p> <p>5 seeing in some of these documents that occurred.</p> <p>6 Q. Is it your opinion that without the</p> <p>7 influence that you cite in these new paragraphs 89</p> <p>8 and 90 that FDA would have done something</p> <p>9 different than what they have done so far to date?</p> <p>10 MS. PARFITT: Objection.</p> <p>11 Form.</p> <p>12 THE WITNESS: I don't think I</p> <p>13 formed that opinion because I think these</p> <p>14 paragraphs have to do with specific</p> <p>15 instances where I do believe that,</p> <p>16 without the influence on the NTP process,</p> <p>17 there might have been a very different</p> <p>18 finding in terms of the listing of NTP.</p> <p>19 A listing in the 10th RoC. That's</p> <p>20 paragraph 90.</p> <p>21 So I do believe that the</p> <p>22 influence of industry and industry</p> <p>23 themselves, the individual at the</p> <p>24 companies are talking about their wins in</p>	<p style="text-align: right;">Page 220</p> <p>1 know, unfortunately, because this</p> <p>2 influence was part of -- part of what</p> <p>3 happened.</p> <p>4 I can tell you based on what I</p> <p>5 believe is, in my view, not appropriate</p> <p>6 based upon my working with the industry</p> <p>7 or what I would influence -- I would tell</p> <p>8 my -- my clients to do.</p> <p>9 And I also, like I said, I</p> <p>10 have -- I have personal knowledge now of</p> <p>11 what people tell me people that work at</p> <p>12 FDA say about the kinds of interactions</p> <p>13 they're allowed to have or not have, and</p> <p>14 I think that what was going on here was</p> <p>15 inconsistent with that.</p> <p>16 BY MR. HEGARTY:</p> <p>17 Q. In paragraph 91, you refer to the</p> <p>18 PCPC and industry representatives failing to</p> <p>19 provide FDA with accurate description of their</p> <p>20 knowledge of talc safety.</p> <p>21 Do you see that --</p> <p>22 A. Where?</p> <p>23 Q. -- addition?</p> <p>24 A. No. I'm looking now.</p>
<p style="text-align: right;">Page 219</p> <p>1 terms of influencing the process. Not</p> <p>2 getting a listing for talc with the NTP.</p> <p>3 So that's the opinions I formed.</p> <p>4 I haven't formed the opinion</p> <p>5 the way you've expressed it.</p> <p>6 BY MR. HEGARTY:</p> <p>7 Q. Yeah. My question was specific to</p> <p>8 FDA.</p> <p>9 You understood that?</p> <p>10 A. I did and I answered it first. I</p> <p>11 thought I said that to you first. I can look.</p> <p>12 Q. So you're not going to provide the</p> <p>13 opinion that one way -- any type of opinion as to</p> <p>14 relates to what FDA would have done with regard to</p> <p>15 talc absent this what you call influence --</p> <p>16 MS. PARFITT: Objection.</p> <p>17 Form.</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. -- that you cite in these two</p> <p>20 paragraphs?</p> <p>21 MS. PARFITT: I'm sorry.</p> <p>22 Objection. Form.</p> <p>23 THE WITNESS: I think that's</p> <p>24 a crystal ball question. We'll never</p>	<p style="text-align: right;">Page 221</p> <p>1 MS. PARFITT: Here you go.</p> <p>2 BY MR. HEGARTY:</p> <p>3 Q. It's in the first part of --</p> <p>4 A. Okay.</p> <p>5 Q. -- I think paragraph 91.</p> <p>6 Do you see where I'm reading from?</p> <p>7 A. I do see that now. Starting with "A</p> <p>8 review of the minutes"?</p> <p>9 Q. Correct.</p> <p>10 A. Yes. Okay.</p> <p>11 Q. Who are the industry representatives</p> <p>12 you're referring to in that addition to this</p> <p>13 paragraph?</p> <p>14 A. I would have to pull the document</p> <p>15 out to look at it. So who was at the meeting.</p> <p>16 But the Talc Interested Party, it's referring to a</p> <p>17 meeting of those folks. There would be -- should</p> <p>18 be J&amp;J people there. There should be Imerys</p> <p>19 people there. There should be maybe Colgate</p> <p>20 Palmolive there. Typically those were all members</p> <p>21 of the -- of the -- of the Talc Interested Party</p> <p>22 task force, including PCPC.</p> <p>23 Q. To what are you referring to when</p> <p>24 you say that these representatives failed to</p>

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<p style="text-align: right;">Page 222</p> <p>1 provide FDA with accurate information -- accurate  2 description of their cosmetic talc safety? To  3 what documents are you referring to, if any?  4 A. Well, I'm referring to -- I give you  5 examples. I say here. When you look at the  6 minutes to the meeting, I'm saying here examples  7 would be the knowledge that U.S. samples of  8 cosmetic talc were not asbestos-free, and I  9 believe that document talks about it being  10 asbestos-free. They also -- and I point you there  11 to the issue of a listing of talc. So that's an  12 example.  13 Q. Okay.  14 A. If you need other examples, let me  15 pull the document out and I could try to help you  16 with that but...  17 Q. That's okay.  18 You refer in this paragraph to  19 Ms. Wille's affidavit and deposition testimony,  20 correct?  21 A. Yes, I do.  22 Q. Have you read both her affidavit and  23 deposition testimony?  24 A. I have.</p>	<p style="text-align: right;">Page 224</p> <p>1 THE WITNESS: I think I just  2 told you what my opinion was.  3 I said when I see the  4 affidavit and then read her deposition  5 testimony, I questioned her -- her  6 affidavit because of the lack of memory  7 she has about almost everything else she  8 talks about.  9 BY MR. HEGARTY:  10 Q. Okay.  11 A. That's what I'm saying to you. It's  12 an issue. I as an expert can look at the  13 credibility of the evidence, and I'm just saying  14 to you: When I read her deposition testimony, she  15 clearly has no memory of almost anything and, as a  16 result, the question is, how is there such a  17 specific memory of that?  18 But the evidence will speak for  19 itself. You know, a jury can decide what's  20 credible and it's not, too, on their own. I'm  21 just telling you it's my opinion that the  22 deposition testimony cast doubt on credibility.  23 Q. Have you read the entirety of Steve  24 Mann's deposition?</p>
<p style="text-align: right;">Page 223</p> <p>1 Q. Are you saying by this paragraph  2 that Ms. Wille was not truthful in her affidavit  3 and deposition testimony?  4 A. I don't have proof that she wasn't  5 truthful, but in my view, when I read her  6 deposition testimony where she continually says  7 she doesn't remember, doesn't remember, doesn't  8 remember, but yet she's so definitive in her  9 affidavit, I do question -- I do question that in  10 my mind.  11 But certainly it will speak for  12 itself and obviously that's what I would -- you  13 notice I don't say anything further than just say  14 this exists, but I felt I needed to do this  15 because during trial, these documents were put  16 before me. So, again, I'm adding that in here  17 because this is something I know came up at trial.  18 Q. Well, for purposes of your opinions  19 as set out in the amended MDL report, are you  20 choosing not to believe Ms. Wille in her affidavit  21 or her deposition testimony about this issue of --  22 that you describe in this paragraph?  23 MS. PARFITT: Objection.  24 Form. Asked and answered.</p>	<p style="text-align: right;">Page 225</p> <p>1 A. I have.  2 Q. Have you read the entirety of  3 Ms. Telofski's deposition?  4 A. She has more than one, doesn't she?  5 Q. Her most recent one in 2021?  6 A. It's on my list, yes. I have read  7 that. It's been a while, but I have read that,  8 yes.  9 Q. Have you read the Nettesheim  10 deposition as well?  11 A. Yes. All of the new ones I added, I  12 have read.  13 Q. If you would turn next to paragraph  14 96. At the end of that paragraph, you added the  15 statement:  16 "Evidence in this case shows that  17 Defendants failed to perform such testing, despite  18 awareness of safety concerns with cosmetic talc."  19 Do you see where I'm reading?  20 A. Yes.  21 Q. Do you have an opinion as to what  22 such testing should have been done?  23 A. I don't think I formed the opinion  24 that a specific study should be done, but it's</p>

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<p style="text-align: right;">Page 226</p> <p>1 very clear that no studies were done on this issue  2 by the company. So I think it's more of an issue  3 of what they didn't do versus should they have  4 done this test, that test, that test. I haven't  5 formed that specific opinion yet.  6 Q. Is there any published authority  7 that defines what tests a manufacturer of a talcum  8 powder product should do to establish its safety?  9 MS. PARFITT: Objection.  10 Form.  11 THE WITNESS: So the  12 regulations in the U.S. do not prescribe  13 a specific number of tests, and if you  14 read the guidance that is there on the  15 FDA website for cosmetics, it talks about  16 the fact that the company is supposed to  17 ensure that the product is safe as used.  18 And if they don't know if it's safe, they  19 have to inform consumers that they don't  20 know.  21 And neither of those --  22 neither -- I don't see -- see either of  23 those things happening in this case.  24 BY MR. HEGARTY:</p>	<p style="text-align: right;">Page 228</p> <p>1 Q. And have you formed opinions in this  2 case about what tests Johnson &amp; Johnson should  3 have conducted to establish the safety of its baby  4 powder products?  5 A. I have not put together a specific  6 list of tests that they should have done.  7 Instead, what I pointed out is that the test that  8 -- the studies that were available to them, in my  9 opinion, provided them the notice and the  10 knowledge that they didn't act upon.  11 So I do think that there's data --  12 reliable data out there they didn't support, but  13 they don't use in terms of what that notice should  14 have triggered in terms of either a warning on the  15 product. Or in the case of what I've heard some  16 of the -- I've seen in the testimony of J&amp;J,  17 they've said numerous time that if we had any --  18 had any reason to believe there was a problem, we  19 would take it off the market, and they haven't  20 done that either. So...  21 Q. Do you have an opinion as to what  22 any such test would show as it relates to the  23 safety of talcum powder products if they had been  24 done?</p>
<p style="text-align: right;">Page 227</p> <p>1 Q. Are you an expert on what tests  2 should be done to ensure the safety of a talcum  3 powder product?  4 MS. PARFITT: Objection.  5 Form.  6 THE WITNESS: So as a  7 toxicologist, I certainly have expertise  8 and I have given advice to my clients on  9 what types of testing to do for cosmetic  10 ingredients or even cosmetic products.  11 So I do have that expertise, yes.  12 BY MR. HEGARTY:  13 Q. Do you have -- are you an expert on  14 what, though, a talcum powder product manufacturer  15 should do to ensure the safety of its talc with  16 regard to testing?  17 A. Are you asking me about testing for  18 purity or testing for safety?  19 Q. Testing for safety.  20 A. So I certainly have that expertise,  21 yes, because it's -- it's the same expertise that  22 I would apply to any of my --  23 Q. Okay.  24 A. -- my clients.</p>	<p style="text-align: right;">Page 229</p> <p>1 MS. PARFITT: Objection.  2 Form.  3 THE WITNESS: Oh, I think --  4 MS. PARFITT: Vague.  5 THE WITNESS: I think you can  6 go to the literature. I would answer  7 that in general terms. The literature.  8 Studies show us if they had done studies  9 like the ones in the published  10 literature, what they would expect to  11 get, yeah.  12 I mean, if you look at the  13 chinchilla study or you look at the  14 Hamilton study or you look at the  15 Buz'Zard study or you look at the  16 Fletcher studies or you look at -- oh,  17 there's a whole list of studies that you  18 could go through, animal.  19 And then you can go to the  20 epidemiological research and sponsoring  21 their own epidemiological research years  22 ago, which hasn't been done.  23 BY MR. HEGARTY:  24 Q. Do you have an opinion in this case</p>

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<p style="text-align: right;">Page 230</p> <p>1 as to whether there are any tests that are not --</p> <p>2 that have not been done on talcum powder products</p> <p>3 as far as their safety that should be done?</p> <p>4 MS. PARFITT: Objection. I</p> <p>5 believe her testimony was there were no</p> <p>6 tests done. Vague.</p> <p>7 BY MR. HEGARTY:</p> <p>8 Q. And then to be clear, I'm talking</p> <p>9 about you mentioned that all this testing that's</p> <p>10 already out there that's already been done in the</p> <p>11 public domain.</p> <p>12 A. Right.</p> <p>13 Q. Do you have any opinion as to</p> <p>14 whether there are additional tests beyond those</p> <p>15 that still be should be done?</p> <p>16 A. I do have an opinion.</p> <p>17 MS. PARFITT: By the company?</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. Okay. By the company.</p> <p>20 A. I do have an opinion.</p> <p>21 Q. Okay. What is that?</p> <p>22 A. My opinion is, there's more than</p> <p>23 enough data already out there for the company to</p> <p>24 take action to either remove the product from the</p>	<p style="text-align: right;">Page 232</p> <p>1 of baby powder?</p> <p>2 A. The things on their own website.</p> <p>3 So -- and if you need the citation, I apologize</p> <p>4 for not giving you, but you can go to the Johnson</p> <p>5 &amp; Johnson website. There's also some press</p> <p>6 releases. I think Reuters had an article that we</p> <p>7 may have talked about in one of the trials. So</p> <p>8 there's some press as well as their own website.</p> <p>9 MR. HEGARTY: Did you -- let</p> <p>10 me go ahead and mark that press release.</p> <p>11 I mark as Exhibit No. 18 the Johnson &amp;</p> <p>12 Johnson press release --</p> <p>13 MS. PARFITT: Thank you.</p> <p>14 MR. HEGARTY: -- of May 19,</p> <p>15 2020.</p> <p>16 (Document marked for</p> <p>17 identification as Plunkett Exhibit 18.)</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. Have you seen that document?</p> <p>20 A. I have seen this document, yes.</p> <p>21 Q. I think that's Exhibit 18?</p> <p>22 A. Yes.</p> <p>23 Q. Have you reviewed the deposition</p> <p>24 testimony of any company witnesses regarding the</p>
<p style="text-align: right;">Page 231</p> <p>1 market or add a warning. There would -- in my</p> <p>2 view, there would be no need to do. The data has</p> <p>3 been there for decades.</p> <p>4 But there's -- I mean, if you want</p> <p>5 to ask me in a science question, we can talk about</p> <p>6 that all day, but, I mean, I think this is what</p> <p>7 I've told you already before. That I believe that</p> <p>8 there's enough evidence to have. The company</p> <p>9 should have taken an action years ago.</p> <p>10 Q. If you would next turn to paragraph</p> <p>11 109. You mention in that paragraph the</p> <p>12 discontinuation of Johnson's Baby Powder. I'm</p> <p>13 sorry. This is in paragraph 110.</p> <p>14 A. Okay.</p> <p>15 Q. You mention in paragraph 110 Johnson</p> <p>16 &amp; Johnson's discontinuation of baby powder,</p> <p>17 correct?</p> <p>18 A. I talk about the removal of</p> <p>19 constituents. Oh, you're -- the very last</p> <p>20 sentence?</p> <p>21 Q. Very last sentence.</p> <p>22 A. Yeah. Yeah. I state a fact, yes.</p> <p>23 Q. What documents have you reviewed</p> <p>24 that discuss Johnson &amp; Johnson's discontinuation</p>	<p style="text-align: right;">Page 233</p> <p>1 discontinuation of baby powder?</p> <p>2 A. I believe it's addressed maybe by</p> <p>3 trial testimony of Dr. Gorsky -- Mr. Gorsky. I'll</p> <p>4 have to look. I do believe there's some testimony</p> <p>5 about -- that I've read about this, but it may be</p> <p>6 trial testimony, not deposition.</p> <p>7 Q. Do you cite in your report where you</p> <p>8 talk about the discontinuation, any deposition or</p> <p>9 trial testimony you've read about Johnson &amp;</p> <p>10 Johnson's decision to discontinue the product?</p> <p>11 A. No, because all I'm trying to do in</p> <p>12 this sentence is state a fact. I'm not -- I'm not</p> <p>13 arguing a point. I'm saying this is what -- this</p> <p>14 is what has happened.</p> <p>15 Q. Do you intend to testify that the</p> <p>16 discontinuation was for reasons other than what's</p> <p>17 stated in Exhibit No. 18?</p> <p>18 MS. PARFITT: Objection.</p> <p>19 Form.</p> <p>20 THE WITNESS: Well, if you're</p> <p>21 asking me to get into the mind of the --</p> <p>22 of the individuals, I can't do that. I</p> <p>23 don't testify about their motivation</p> <p>24 because I haven't, you know, can't get</p>



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<p style="text-align: right;">Page 234</p> <p>1 inside them. I can tell you what my 2 opinion is based on whether or not that 3 action made sense to do or not. 4 I think there should have been 5 things done way before this. But I 6 understand a company deciding to stop 7 distributing because there's a safety 8 concern. I mean, it was a clear safety 9 concern being raised by FDA about the 10 presence of asbestos in the product. 11 BY MR. HEGARTY: 12 Q. Is it your opinion that Johnson &amp; 13 Johnson's decision to discontinue the sale of baby 14 powder in U.S. -- in the U.S. and Canada was based 15 on a concern about the safety of the product? 16 MS. PARFITT: Objection. 17 THE WITNESS: I said to you, 18 I can't get inside their minds. All I 19 can tell you is, based upon what I know, 20 that certainly there were safety concerns 21 being raised at right before this time 22 not only by the FDA because of the 23 asbestos found in the product. 24 Also right before this time we</p>	<p style="text-align: right;">Page 236</p> <p>1 inside of Johnson &amp; Johnson had safety concerns 2 about Johnson's Baby Powder at the time -- 3 A. Well -- 4 Q. -- it chose to discontinue the 5 product? 6 MS. PARFITT: Objection. 7 Form. Vague. Broad. 8 THE WITNESS: So I would say 9 to you there were -- there were certainly 10 concerns about safety raised throughout 11 the decades. 12 I don't believe that any of 13 the witnesses I've seen testify have said 14 that the way you're asking it. So I 15 can't point to their testimony. 16 But there were certainly -- 17 for example, they were told by their own 18 consultants and their own internal people 19 all kinds of issues over the years about 20 what evidence was there. So I do believe 21 that they understood the safety concerns. 22 BY MR. HEGARTY: 23 Q. Well -- and I want to be direct on 24 my questioning.</p>
<p style="text-align: right;">Page 235</p> <p>1 had that February meeting in 2020 with 2 the FDA. The public hearing. So we know 3 FDA is looking at things. 4 We know that Health Canada 5 is -- wrote a screening assessment, a 6 draft one. 7 I mean, all these things are 8 there. Safety has been questioned at 9 this point in time. But that's all I can 10 tell you. 11 I am -- I can't get into the 12 mind of any one individual. I can tell 13 you what I think the evidence shows, and 14 the evidence shows there were significant 15 safety concerns that were going on at 16 this point in time. 17 And would it make sense to 18 take the product off the market? 19 Absolutely. Would it make sense to do it 20 a lot sooner? Absolutely. 21 BY MR. HEGARTY: 22 Q. You mentioned safety concerns that 23 were going on at the time. 24 Is it your opinion that anyone</p>	<p style="text-align: right;">Page 237</p> <p>1 My question is whether you're going 2 to come into the courtroom and say, based on 3 documents I reviewed or testimony I reviewed, I 4 know that I have the opinion that Johnson &amp; 5 Johnson discontinued the product not for the 6 reasons that they said in their -- in their -- in 7 their press release, but for safety reasons? 8 A. Oh, I don't think I can do that. I 9 don't think a judge would let me do that. Because 10 that's, again, to me that's getting into the mind 11 of the company. 12 I'm saying to you, I can tell you 13 what I believe in terms of what was going on at 14 the time, what it clearly made sense to be doing. 15 I'm just telling you it should have been 16 happening -- 17 Q. Right. 18 A. -- much sooner than that. 19 MR. HEGARTY: Could we take a 20 quick break? Can I -- we can go off the 21 record. 22 (Recess: 1:06 p.m. - 23 1:23 p.m.) 24 MR. HEGARTY: Let's go back on</p>

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<p>1 the record.</p> <p>2 I want to mark next the</p> <p>3 notices of the two depositions for the</p> <p>4 MDL and the Swann case as Exhibits 19 and</p> <p>5 20.</p> <p>6 (Document marked for</p> <p>7 identification as Plunkett Exhibit 19.)</p> <p>8 (Document marked for</p> <p>9 identification as Plunkett Exhibit 20.)</p> <p>10 BY MR. HEGARTY:</p> <p>11 Q. And with regard to the documents</p> <p>12 requested, Dr. Plunkett, did you have a chance to</p> <p>13 go through the paragraphs requesting documents?</p> <p>14 A. Yeah. I'm trying to decide if I've</p> <p>15 seen both of these.</p> <p>16 Q. Just focus on the MDL one --</p> <p>17 A. Okay.</p> <p>18 Q. -- because it's identical.</p> <p>19 Have you seen the MDL notice?</p> <p>20 A. Yes, that I have. That's the one.</p> <p>21 Q. You went through the paragraphs in</p> <p>22 the MDL notice?</p> <p>23 A. Yeah, and I helped identify. You</p> <p>24 asked me a question earlier. I said this would</p>	<p>1 (Document marked for</p> <p>2 identification as Plunkett Exhibit 21.)</p> <p>3 BY MR. HEGARTY:</p> <p>4 Q. And with regard to the -- to</p> <p>5 paragraph 7 in that document, supplemental</p> <p>6 materials provided between August 1 to August 10,</p> <p>7 2021.</p> <p>8 Do you see that reference?</p> <p>9 A. Yes.</p> <p>10 Q. What are those supplemental</p> <p>11 materials?</p> <p>12 A. It's -- you had a list of those.</p> <p>13 Remember?</p> <p>14 Q. Is it this list, Exhibit 9?</p> <p>15 A. No. No. No. No. It's that -- you</p> <p>16 had a little. A shorter document we marked. It's</p> <p>17 not this thing. You had things reviewed or</p> <p>18 something. You showed it to me.</p> <p>19 MS. PARFITT: And I did not</p> <p>20 get a copy. You have the only one.</p> <p>21 BY MR. HEGARTY:</p> <p>22 Q. Is it this exhibit, Exhibit 11?</p> <p>23 A. Yes, that's it. That -- that goes</p> <p>24 with number -- where is that?</p>
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<p>1 help me know where that document came from, that</p> <p>2 kind of thing. So, yeah.</p> <p>3 Q. And did you provide your counsel</p> <p>4 with any responsive documents to those paragraphs?</p> <p>5 A. Yes, I did, and mostly I just told</p> <p>6 them what documents that within my reliance</p> <p>7 materials they needed to provide or I sent them,</p> <p>8 for example, my new trial list, things like that.</p> <p>9 Yeah.</p> <p>10 MS. PARFITT: And for the</p> <p>11 record, Mark, we produced a letter</p> <p>12 August 6, 2021 to you.</p> <p>13 MR. HEGARTY: Right, and I'm</p> <p>14 going to mark this here in a moment.</p> <p>15 MS. PARFITT: Which is in</p> <p>16 response directly to the notice of</p> <p>17 deposition.</p> <p>18 MR. HEGARTY: I'll just go</p> <p>19 ahead and mark that since you brought</p> <p>20 that up.</p> <p>21 MS. PARFITT: Okay.</p> <p>22 MR. HEGARTY: I'll mark as</p> <p>23 Exhibit No. 21 an August 6, 2021 letter</p> <p>24 from Ms. Parfitt to Ms. Sharko.</p>	<p>1 Q. 7?</p> <p>2 A. Number 7, yeah.</p> <p>3 Q. Are these materials you had reviewed</p> <p>4 only for the first time between August 1 and</p> <p>5 August 10, 2021?</p> <p>6 A. No. Some of these are not. Some of</p> <p>7 these are ones that obviously I had -- I had</p> <p>8 already considered before.</p> <p>9 Q. Which ones?</p> <p>10 A. So there may be a few mistakes on</p> <p>11 here. Like, for example, I would not have put</p> <p>12 McDonald 2019 on here because they obviously -- I</p> <p>13 had that in my -- that should have been in my</p> <p>14 reliance materials for the Cadigan trial, in fact,</p> <p>15 earlier that was presented. So it may not have</p> <p>16 been on my MDL list before. So that may be the</p> <p>17 issue.</p> <p>18 MS. PARFITT: I'll</p> <p>19 represent --</p> <p>20 BY MR. HEGARTY:</p> <p>21 Q. Can you identify which of those you</p> <p>22 have seen -- you have only seen -- you have only</p> <p>23 seen for the first time since August 1, 2021?</p> <p>24 A. Okay. So that would be any of</p>

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<p>1 the -- the Kuffner document. That may not even be</p> <p>2 on here. The -- hold on. Okay. So I wouldn't</p> <p>3 have put August 1st. I think there's a number of</p> <p>4 these that should go back to the Cadigan trial,</p> <p>5 which would be July, okay?</p> <p>6 So, for example, this EPA comments</p> <p>7 document I hadn't. That was a surprise to me at</p> <p>8 the trial. I admit that, right? So that would be</p> <p>9 there.</p> <p>10 Q. What else --</p> <p>11 A. Let me see.</p> <p>12 Q. -- is new since either July or</p> <p>13 August 1st?</p> <p>14 A. Yeah, okay. I think I had 9. No.</p> <p>15 No. I had that. I had that.</p> <p>16 So you did not know that I had</p> <p>17 reviewed this color advertisement. I doubt that</p> <p>18 was on my material, my reliance list before, but I</p> <p>19 had reviewed that before. So that is new to you</p> <p>20 to ask questions about, okay?</p> <p>21 Q. Okay. And not new to you?</p> <p>22 A. No, it's not new to me, and that's</p> <p>23 what I'm saying. I don't think there's anything</p> <p>24 really new. The only thing that I can see on here</p>	<p>1 Q. I think it's on page 3 where you see</p> <p>2 your name?</p> <p>3 A. I see that, yes.</p> <p>4 Q. Would you look at that paragraph and</p> <p>5 tell me whether you have ever seen it before right</p> <p>6 now in this document?</p> <p>7 A. I don't know that I've seen this</p> <p>8 document, but I've seen this -- something very</p> <p>9 similar to this in my other -- other times I've</p> <p>10 seen documents where I've been listed as an</p> <p>11 expert.</p> <p>12 Q. And is your testimony -- your</p> <p>13 anticipated testimony in the MDL based on your</p> <p>14 amended report as well as your deposition and</p> <p>15 trial testimony up through the present day what</p> <p>16 you plan on testifying in the Swann case as well?</p> <p>17 A. Yes, that's my understanding. I</p> <p>18 have had -- I have had no other information that</p> <p>19 would indicate otherwise.</p> <p>20 Q. Have you prepared any invoice</p> <p>21 containing any time dedicated to the Swann case?</p> <p>22 A. No.</p> <p>23 Q. If we could go back to your report,</p> <p>24 I just --</p>
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<p>1 that was, quote-unquote, new to me would have been</p> <p>2 this EPA document.</p> <p>3 Q. Okay.</p> <p>4 A. But -- and the fact that I gave you</p> <p>5 an updated trial list.</p> <p>6 Q. Okay.</p> <p>7 A. So I think otherwise.</p> <p>8 MR. HEGARTY: All right. You</p> <p>9 can set that aside.</p> <p>10 Next mark as Exhibit 22</p> <p>11 your -- the Plaintiff's Amended</p> <p>12 Disclosure of Expert Witnesses in the</p> <p>13 Swann case, and I seem to have only one</p> <p>14 copy of it.</p> <p>15 MS. PARFITT: That's fine.</p> <p>16 MR. HEGARTY: If you guys</p> <p>17 could share.</p> <p>18 (Document marked for</p> <p>19 identification as Plunkett Exhibit 22.)</p> <p>20 BY MR. HEGARTY:</p> <p>21 Q. Would you look over at page or</p> <p>22 paragraph 2 I think is on page --</p> <p>23 MS. PARFITT: He knows Swann.</p> <p>24 BY MR. HEGARTY:</p>	<p>1 A. Oh, wait a minute. Did you check?</p> <p>2 I can't say that without looking at that one bill.</p> <p>3 Was that one bill that had all those cases?</p> <p>4 Q. Yeah. If you want to go back and</p> <p>5 look at that.</p> <p>6 A. Yeah, let me look at that. I just</p> <p>7 remembered that. Sorry. There it is.</p> <p>8 Q. It should be Exhibit No. 2.</p> <p>9 A. Yes. Let me just check to make sure</p> <p>10 if Swann is listed there or not.</p> <p>11 Yes, it is listed. So, yes.</p> <p>12 Q. Okay.</p> <p>13 A. Valerie Swann?</p> <p>14 Q. Yes.</p> <p>15 A. Yes. So I had charged 2 hours for</p> <p>16 docket review sometime before, probably in January</p> <p>17 or December. December 2020 or January 2021.</p> <p>18 Q. Okay. If you could go back to your</p> <p>19 report, paragraph 53, and tell me when you are</p> <p>20 there. I'm sorry. I'm sorry. It's paragraph 52.</p> <p>21 A. Okay. I'm there.</p> <p>22 Q. You added to this paragraph a</p> <p>23 reference to the Lauchlan 1994 paper, correct?</p> <p>24 A. Yes, that's correct.</p>

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<p style="text-align: right;">Page 246</p> <p>1 Q. Why did you add this paper?</p> <p>2 A. Because it was an additional piece</p> <p>3 of information that I had that was relevant to</p> <p>4 migration. That and I added the Alexander paper,</p> <p>5 too, to this general discussion.</p> <p>6 Q. With regard to the Lauchlan paper,</p> <p>7 when did you first read this paper in relation to</p> <p>8 your preparing your amended report?</p> <p>9 A. Sometime after my original report.</p> <p>10 So I can't tell you what date in 2019 or 2020 it</p> <p>11 would have been, but sometime after my original</p> <p>12 report, I believe.</p> <p>13 Q. And how did you come across it, if</p> <p>14 you can recall?</p> <p>15 A. If you show it to me, maybe that</p> <p>16 will trigger something. I apologize.</p> <p>17 MR. HEGARTY: I'll mark as</p> <p>18 Exhibit 23 the Lauchlan paper we've been</p> <p>19 talking about.</p> <p>20 (Document marked for</p> <p>21 identification as Plunkett Exhibit 23.)</p> <p>22 MS. PARFITT: Thank you.</p> <p>23 (Off the record discussion.)</p> <p>24 THE WITNESS: Do you want me</p>	<p style="text-align: right;">Page 248</p> <p>1 Q. And my question is: As it relates</p> <p>2 throughout the document, it doesn't cite to any</p> <p>3 study that actually looked at whether particles</p> <p>4 applied externally to the perineum, talc or</p> <p>5 otherwise, can reach the ovaries or did reach the</p> <p>6 ovaries?</p> <p>7 MS. PARFITT: Objection.</p> <p>8 THE WITNESS: (Reviews</p> <p>9 document.)</p> <p>10 They don't provide a specific</p> <p>11 study on talc that was applied to the</p> <p>12 perineum, no. Instead, they are talking</p> <p>13 about the general literature, like I did,</p> <p>14 and the old literature about looking at</p> <p>15 particles that are similar to talc.</p> <p>16 And then this particular</p> <p>17 author then is taking that to the next</p> <p>18 step. He's -- he's talking about the</p> <p>19 fact that it's from Parmley and Woodruff.</p> <p>20 Causative agents for ovarian cancer could</p> <p>21 gain access through this route, and then</p> <p>22 he talks about the issue with talc.</p> <p>23 So, no, I don't think it's a</p> <p>24 piece of data the way you're asking it.</p>
<p style="text-align: right;">Page 247</p> <p>1 to answer?</p> <p>2 BY MR. HEGARTY:</p> <p>3 Q. Sure.</p> <p>4 A. I'm sorry.</p> <p>5 Q. The question was: Do you recall</p> <p>6 where you obtained -- from where you obtained the</p> <p>7 document?</p> <p>8 A. No. It could be one that I found in</p> <p>9 my research or it could be one that was within --</p> <p>10 cited by someone else in an expert report. I</p> <p>11 don't know, but I am certainly this is one I had.</p> <p>12 In fact, I may have even had this before my</p> <p>13 original MDL report. It's possible. I just don't</p> <p>14 recall.</p> <p>15 Q. Do you agree that with regard to the</p> <p>16 Lauchlan study that it cites no published article</p> <p>17 that analyzed whether particles applied to the</p> <p>18 perineum, talc or otherwise, can reach the</p> <p>19 ovaries?</p> <p>20 MS. PARFITT: Objection. Are</p> <p>21 you referring to a specific paragraph?</p> <p>22 THE WITNESS: Yeah. Yeah.</p> <p>23 There's a talc section. So let me look.</p> <p>24 BY MR. HEGARTY:</p>	<p style="text-align: right;">Page 249</p> <p>1 BY MR. HEGARTY:</p> <p>2 Q. Okay. If you turn next to paragraph</p> <p>3 55?</p> <p>4 A. Okay.</p> <p>5 Q. In that paragraph, you refer to a</p> <p>6 study by McDonald and colleagues, correct?</p> <p>7 A. Yes. There's two studies.</p> <p>8 Q. And by Johnson as well, right?</p> <p>9 A. Yes. There's three studies, yes.</p> <p>10 Q. Two studies by McDonald and a study</p> <p>11 by Johnson, correct?</p> <p>12 A. Yes. Exactly.</p> <p>13 Q. And do you understand that the</p> <p>14 authors -- some of the authors of those two papers</p> <p>15 are experts for plaintiffs in the talc litigation?</p> <p>16 A. On the McDonald papers, yes, I'm</p> <p>17 aware of that. Johnson paper I need to see the</p> <p>18 other list. I can't answer that without looking</p> <p>19 at the list.</p> <p>20 MR. HEGARTY: I'll mark as</p> <p>21 Exhibit 24 the Johnson article that you</p> <p>22 cite in your amended report.</p> <p>23 THE WITNESS: Yeah.</p> <p>24 (Document marked for</p>

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<p>1 identification as Plunkett Exhibit 24.)</p> <p>2 THE WITNESS: Yes. Okay. It</p> <p>3 is. It's Dr. Godleski's group. So, yes,</p> <p>4 I'm aware of that.</p> <p>5 BY MR. HEGARTY:</p> <p>6 Q. And are you aware that the authors</p> <p>7 of the Johnson study paid for it themselves?</p> <p>8 MS. PARFITT: Objection.</p> <p>9 Form.</p> <p>10 BY MR. HEGARTY:</p> <p>11 Q. And you can look at the --</p> <p>12 A. I need to look.</p> <p>13 Q. -- very last page on the financial</p> <p>14 support section.</p> <p>15 A. I see that. That's what they say,</p> <p>16 yes.</p> <p>17 Q. Neither the McDonald papers nor the</p> <p>18 Johnson papers identify any asbestos, correct?</p> <p>19 A. I'd have to look, but I don't</p> <p>20 believe that's true. I would say to you I believe</p> <p>21 that -- that you have a correct statement, but</p> <p>22 I -- to confirm, I'd have to look at them again.</p> <p>23 Q. They don't refer to fibrous talc</p> <p>24 either, correct?</p>	<p>1 has shown that in his work, fibers as well as talc</p> <p>2 particles. I believe he's seen both. If you want</p> <p>3 me to tell you whether he reports either of those</p> <p>4 in these three papers, I'd have to look.</p> <p>5 Q. If we --</p> <p>6 A. But --</p> <p>7 Q. If we set aside the studies by</p> <p>8 McDonald and Johnson because we might have to go</p> <p>9 and look at them in detail, are you aware of any</p> <p>10 studies that tried to evaluate the migration of</p> <p>11 fibers from the vagina to the tubes and ovaries?</p> <p>12 MS. PARFITT: Objection.</p> <p>13 Other than what she's provided in prior</p> <p>14 depositions and her reports.</p> <p>15 THE WITNESS: So I would say</p> <p>16 to you, depending on the size of a fiber,</p> <p>17 they would fit within the studies that</p> <p>18 talk about particles.</p> <p>19 So the fiber could if the</p> <p>20 fiber is of a size that's similar to some</p> <p>21 of the particles that have been studied,</p> <p>22 and I'd have to do that comparison in</p> <p>23 order to -- to look at what fiber you're</p> <p>24 talking about.</p>
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<p>1 MS. PARFITT: Objection.</p> <p>2 Form.</p> <p>3 THE WITNESS: I'd have to</p> <p>4 look. I can't -- in order to answer that</p> <p>5 question, I'd have to look whether or not</p> <p>6 they call -- they talk about fibers or</p> <p>7 not. I don't know. I'd have to look.</p> <p>8 They do actually, I think, in</p> <p>9 this paper talk about things that are --</p> <p>10 have the width and diameter of</p> <p>11 potentially being fibers. This is the</p> <p>12 Johnson paper, but I'd have to look to</p> <p>13 tell you. I don't know.</p> <p>14 BY MR. HEGARTY:</p> <p>15 Q. Can you cite for me any study that</p> <p>16 shows migration of talc fibers from the perineum</p> <p>17 to the ovaries?</p> <p>18 MS. PARFITT: Other than this</p> <p>19 study?</p> <p>20 BY MR. HEGARTY:</p> <p>21 Q. Including any study. Can you cite</p> <p>22 for me any study that purports to show migration</p> <p>23 of talc fibers from the perineum to the ovaries?</p> <p>24 A. Well, I believe that Dr. Godleski</p>	<p>1 But I do believe whether it's</p> <p>2 a fibrous talc or whether it's a talc</p> <p>3 particle that may include platy talc plus</p> <p>4 fibers within it -- because the particle</p> <p>5 could be -- could be a complex mixture of</p> <p>6 those things -- it's possible that those</p> <p>7 things are occurring that way.</p> <p>8 Then I think that there is</p> <p>9 evidence to show that talc can migrate of</p> <p>10 the -- of the size that is found within</p> <p>11 baby powder, and obviously baby powder is</p> <p>12 of a size that includes at</p> <p>13 microscopically both fibers and</p> <p>14 particles -- and smaller particles.</p> <p>15 BY MR. HEGARTY:</p> <p>16 Q. If we go back to paragraph 55, you</p> <p>17 include a quotation to a portion of the Johnson</p> <p>18 study that was discussed in the Health Canada risk</p> <p>19 assessment, correct?</p> <p>20 A. Yes, that's correct.</p> <p>21 Q. And with regard to that cited</p> <p>22 passage in your report that refers to reactive</p> <p>23 fibroblastic tissue or chronically inflamed</p> <p>24 tissue.</p>

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<p style="text-align: right;">Page 254</p> <p>1 Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. Now, with regard to ovarian cancer,</p> <p>4 both of these types of tissues can arise from the</p> <p>5 cancer itself, correct?</p> <p>6 A. Oh, I think you should talk to an</p> <p>7 ovarian cancer pathogenesis person about that.</p> <p>8 Q. Okay. So fair enough.</p> <p>9 And the same question goes as to</p> <p>10 whether you know both of those types of tissues</p> <p>11 can arise from chemotherapy?</p> <p>12 A. Same.</p> <p>13 MS. PARFITT: Objection.</p> <p>14 THE WITNESS: It would be the</p> <p>15 same answer. I think you should talk to</p> <p>16 someone who is an expert in looking at</p> <p>17 those tumors under the microscope.</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. With respect to the statement in the</p> <p>20 cited portion that you include in your report that</p> <p>21 says with respect to "the presumption is that talc</p> <p>22 accumulates in benign tissue some time prior to</p> <p>23 the tumour developing."</p> <p>24 Do you see that part of the quote?</p>	<p style="text-align: right;">Page 256</p> <p>1 Can you cite for me then any studies</p> <p>2 showing this accumulation of tissue in women prior</p> <p>3 to diagnosis of ovarian cancer but then later are</p> <p>4 diagnosed with ovarian cancer?</p> <p>5 MS. PARFITT: Objection.</p> <p>6 THE WITNESS: I don't know.</p> <p>7 I have no idea. You'd have to ask -- I</p> <p>8 think you could ask the pathologist in</p> <p>9 this case. Maybe he has seen such</p> <p>10 samples.</p> <p>11 BY MR. HEGARTY:</p> <p>12 Q. Are you an expert in the type of</p> <p>13 studies conducted in the Johnson and McDonald</p> <p>14 papers?</p> <p>15 MS. PARFITT: Objection.</p> <p>16 Form.</p> <p>17 THE WITNESS: If are you</p> <p>18 asking me, am I an expert in performing</p> <p>19 these studies? No. I have expertise in</p> <p>20 understanding the importance of this kind</p> <p>21 of data, however.</p> <p>22 I am familiar with and have</p> <p>23 expertise in understanding the importance</p> <p>24 of electron microscopy in looking at</p>
<p style="text-align: right;">Page 255</p> <p>1 A. Yes, I do.</p> <p>2 Q. Did you cite any published reporting</p> <p>3 an accumulation of talc and tissue prior to tumor</p> <p>4 development?</p> <p>5 A. Yes. The -- the NTP rat study shows</p> <p>6 accumulation of talc -- micronized talc in tissue</p> <p>7 prior. Remember I used that with the issue of</p> <p>8 preneoplastic lesions that develop in the area of</p> <p>9 the talc. And then the chinchilla study. I point</p> <p>10 you to that as well.</p> <p>11 And I'd also point you to the rat</p> <p>12 ovarian bursal study, which is Hamilton, I think.</p> <p>13 I may have that -- or Davies. One of the two.</p> <p>14 Yeah.</p> <p>15 Q. Can you cite any authorities seeing</p> <p>16 this accumulation in tissue in women who later</p> <p>17 developed ovarian cancer?</p> <p>18 A. Accumulation in benign tissue?</p> <p>19 Q. Correct.</p> <p>20 A. Well, I think that's what they're</p> <p>21 talking about here. They're talking about the</p> <p>22 Johnson paper where they talk about benign tissue.</p> <p>23 Q. And my question -- I need to be more</p> <p>24 specific then.</p>	<p style="text-align: right;">Page 257</p> <p>1 these kinds of tissues for these types of</p> <p>2 particles, but I don't do this kind of</p> <p>3 work.</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. If you would turn next to paragraph</p> <p>6 62 in your report.</p> <p>7 A. Yes, I'm there.</p> <p>8 Q. In that paragraph, you discuss in</p> <p>9 some detail the Mandarino 2020 study, correct?</p> <p>10 A. I think that's what was new here,</p> <p>11 correct?</p> <p>12 Q. Correct.</p> <p>13 A. Yeah. I'm looking where it starts.</p> <p>14 So...</p> <p>15 Q. Starts towards the bottom.</p> <p>16 A. Oh, here it is. Yes, I find it.</p> <p>17 Yes.</p> <p>18 MR. HEGARTY: And I'll mark as</p> <p>19 Exhibit 25 the Mandarino 2020 study.</p> <p>20 (Document marked for</p> <p>21 identification as Plunkett Exhibit 25.)</p> <p>22 MS. PARFITT: Thank you.</p> <p>23 BY MR. HEGARTY:</p> <p>24 Q. The Mandarino study that you cite</p>

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<p style="text-align: right;">Page 258</p> <p>1 refers to mouse cells, right?</p> <p>2 A. Yes, that's correct. They're</p> <p>3 looking at marine ovarian epithelial cells.</p> <p>4 Q. And, again, are you an expert on the</p> <p>5 type of study done in this type of paper?</p> <p>6 MS. PARFITT: I'm going to</p> <p>7 object as vague to that question.</p> <p>8 THE WITNESS: So I have</p> <p>9 expertise in in vitro toxicology methods,</p> <p>10 and I'm very familiar and have -- I</p> <p>11 understand the strengths and weaknesses</p> <p>12 of doing these kinds of studies.</p> <p>13 I have not -- I have done in</p> <p>14 vitro cell studies before myself in the</p> <p>15 lab. I have not -- obviously I did not</p> <p>16 do this study, and I think that this</p> <p>17 would be a study that would be best maybe</p> <p>18 discussed, however, with the author, who</p> <p>19 is in the litigation. Dr. Godleski could</p> <p>20 talk to you about it.</p> <p>21 I am familiar, though, and</p> <p>22 these are the kinds of studies I rely on</p> <p>23 for the evidence in the case.</p> <p>24 BY MR. HEGARTY:</p>	<p style="text-align: right;">Page 260</p> <p>1 Q. Are you aware of any articles that</p> <p>2 say that changes in expression of macrophages is</p> <p>3 pertinent to cancer development?</p> <p>4 A. I don't think I'll find that</p> <p>5 sentence. I think I'll find what's right, which</p> <p>6 is what here, which is on mechanistic data, the</p> <p>7 role of the scientist is to look for cellular</p> <p>8 changes that would be relevant to how we know</p> <p>9 cancer can develop.</p> <p>10 And so I don't think I would say it</p> <p>11 the way you asked it. I would say it the way that</p> <p>12 the authors say it. That there are macrophage</p> <p>13 genes that are relevant and pertinent to looking</p> <p>14 at mechanisms of cancer development.</p> <p>15 Q. How does the dose of talc exposure</p> <p>16 to the cells in this study compare to what the</p> <p>17 exposure would be to the ovaries in women using</p> <p>18 talc, in your opinion?</p> <p>19 A. I haven't formed an opinion on -- on</p> <p>20 the comparison of that dose, but I believe I've</p> <p>21 talked about these issues before in deposition, if</p> <p>22 you want me to rehash that but --</p> <p>23 Q. No. I'm referring --</p> <p>24 MS. PARFITT: Yeah.</p>
<p style="text-align: right;">Page 259</p> <p>1 Q. Are you aware of any studies showing</p> <p>2 the same findings reported in Mandarinino in women</p> <p>3 using talc?</p> <p>4 A. So what do you mean by -- are you</p> <p>5 asking me do they see -- we certainly see</p> <p>6 inflammatory changes would be consistent with</p> <p>7 reactive oxygen species, but I haven't seen</p> <p>8 somebody take -- you're asking me if somebody take</p> <p>9 human cells out and done the same thing in a human</p> <p>10 cell?</p> <p>11 Q. Correct.</p> <p>12 A. I don't know. I'd have to look. I</p> <p>13 know that there are human ovarian cell lines that</p> <p>14 have been studied, and I believe Dr. Fletcher does</p> <p>15 some of that. I need to look and see, but I</p> <p>16 think.</p> <p>17 Q. This quote --</p> <p>18 A. Yes.</p> <p>19 Q. -- from the Mandarinino paper refers</p> <p>20 to reactive oxygen species and changes in</p> <p>21 expression of macrophage pertinent to cancer</p> <p>22 development.</p> <p>23 Do you see that?</p> <p>24 A. I do.</p>	<p style="text-align: right;">Page 261</p> <p>1 BY MR. HEGARTY:</p> <p>2 Q. -- specifically to this paper and</p> <p>3 the doses they used.</p> <p>4 A. I haven't done that analysis. To</p> <p>5 me, this is a mechanistic study. It provides</p> <p>6 important mechanistic information.</p> <p>7 Q. Can you cite to me any studies</p> <p>8 showing a link between changes of gene expression</p> <p>9 as referenced in this article to ovarian cancer</p> <p>10 risk?</p> <p>11 A. I don't think anybody has done that</p> <p>12 kind of work that I'm aware of, other than looking</p> <p>13 at genetic changes that are predispositions for</p> <p>14 cancer, but that's different than what they're</p> <p>15 doing here. They're looking here at changes after</p> <p>16 exposure.</p> <p>17 Q. Are you aware of any study that</p> <p>18 looks at any state of immunosuppression, whether</p> <p>19 associated with immunosuppression drugs after</p> <p>20 transplant or immunocompromised individuals, that</p> <p>21 have been shown to increase the risk of ovarian</p> <p>22 cancer?</p> <p>23 In other words, are you aware of any</p> <p>24 study showing that in immunocompromised state,</p>

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<p style="text-align: right;">Page 262</p> <p>1 women are at increased risk of developing ovarian 2 cancer?</p> <p>3 MS. PARFITT: Objection.</p> <p>4 THE WITNESS: Well, I don't 5 think that's what this paper is talking 6 about. It's talking about 7 immunosurveillance, which is different 8 than immunocompromised. So are you 9 asking me about immunosurveillance or --</p> <p>10 BY MR. HEGARTY:</p> <p>11 Q. Well, let me ask that. Let me go 12 back and ask that.</p> <p>13 Do you see immunosurveillance 14 different than immunocompromised?</p> <p>15 A. It can be, yes.</p> <p>16 Q. How are they different, in your 17 opinion?</p> <p>18 A. So to me, immunocompromised is a 19 specific clinical diagnosis in an individual, 20 whether or not they're looking across -- 21 wholistically across the immune system.</p> <p>22 Immunosurveillance is a mechanism 23 that operates in the human body in order to 24 protect you from things, such as exposure to</p>	<p style="text-align: right;">Page 264</p> <p>1 the cells off.</p> <p>2 But are you asking me something 3 else? Are you asking me whether somebody has done 4 quantitative measuring or --</p> <p>5 Q. Correct. Quantitative measuring.</p> <p>6 A. I don't know. I haven't looked for 7 that.</p> <p>8 Q. Are you aware of any studies showing 9 that talc has an effect on monocytes?</p> <p>10 A. I don't believe anybody that I 11 recognize in the literature I've looked at looks 12 just at monocytes. They're focusing on 13 macrophages for a reason.</p> <p>14 Q. The reported effect by Maldonado was 15 localized to the cells in which talc came into 16 contact with, correct?</p> <p>17 A. In Mandarinino or --</p> <p>18 Q. I'm sorry. Mandarinino.</p> <p>19 A. Yes. Yes, that's correct.</p> <p>20 Q. And does not purport to show what a 21 system-wide effect would be across the body to a 22 particular portion of tissue exposed to talc, 23 correct?</p> <p>24 MS. PARFITT: Objection.</p>
<p style="text-align: right;">Page 263</p> <p>1 exogenous substances, but also to keep your system 2 working properly just generally as you age.</p> <p>3 Q. Okay. The paper, the Mandarinino 4 paper, does talk about macrophages, correct?</p> <p>5 A. It does.</p> <p>6 Q. Macrophages are created by 7 monocytes; is that right?</p> <p>8 A. They derive from those, yes.</p> <p>9 Q. Do you know how many monocytes a 10 body creates every day?</p> <p>11 A. Oh, I could find that in my 12 physiology text, but I do not know off the top of 13 my head.</p> <p>14 Q. Do you know how many macrophages are 15 in the body at any given time?</p> <p>16 A. Same answer. I certainly have that 17 in my materials, but I can't recite that for you.</p> <p>18 Q. Does this study or are you aware of 19 any study that shows that talcum powder exposure 20 reduces the number of macrophages in the body?</p> <p>21 A. Yes, there are studies that show 22 that they undergo apoptosis, or cellular death, in 23 the presence of talc. So that means you're 24 reducing the numbers, obviously, if you're killing</p>	<p style="text-align: right;">Page 265</p> <p>1 Form.</p> <p>2 THE WITNESS: I would say 3 that that is not at all the design of 4 this study.</p> <p>5 This study is an in vitro 6 study looking at isolated events that can 7 build towards understanding the 8 pathogenesis of cancer.</p> <p>9 BY MR. HEGARTY:</p> <p>10 Q. Macrophages when they respond to an 11 insult -- I'll put it that way -- come from all 12 parts of the body to that insult, correct?</p> <p>13 MS. PARFITT: Objection.</p> <p>14 Form.</p> <p>15 THE WITNESS: What do you 16 mean by "come from all parts of the 17 body"? That doesn't really make sense to 18 me.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. Well, let me ask it a different way. 21 If you have an inflammation or let's 22 say -- let me start over.</p> <p>23 If you have an infection that 24 macrophages respond to, do you agree that the</p>

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<p style="text-align: right;">Page 266</p> <p>1 macrophage -- that the response is just not  2 limited to the local tissue where that infection  3 is -- is located, correct?  4 A. It can be if it's -- if you catch  5 the infection early. That's the whole point.  6 So -- but I would agree. What I would say to you  7 is it can travel beyond the local infection. When  8 it becomes a systemic issue, yes, that can happen.  9 But if the infection stays in a small site, it's  10 the local tissue response that hopefully can --  11 can take care of the problem.  12 Q. You agree, though, that  13 macrophages -- the body can call upon macrophages  14 across other parts of the body to come to a  15 localized area where they are needed, correct?  16 MS. PARFITT: Objection.  17 Form.  18 THE WITNESS: I don't think  19 the body does it quite that way. I think  20 if you wanted -- if you wanted to make it  21 simplistic, I would say to you that your  22 immune system overall is there to respond  23 to insults.  24 And if insults become</p>	<p style="text-align: right;">Page 268</p> <p>1 of my research. But yes, I have done those things  2 before.  3 MR. HEGARTY: And I'll mark as  4 Exhibit 26 the Fletcher paper that you've  5 added a reference to in that paragraph.  6 MS. PARFITT: Thank you.  7 (Document marked for  8 identification as Plunkett Exhibit 26.)  9 BY MR. HEGARTY:  10 Q. And the study -- the cells that he  11 used in the study are immortalized cells, correct?  12 A. Yes, that's correct. That's  13 typically what you are required to do with these  14 kinds of assays.  15 Q. So they would not be considered  16 normal cells, right?  17 MS. PARFITT: Objection.  18 Form.  19 THE WITNESS: Okay. So I  20 would point you -- I would point you to  21 others in this litigation to go into the  22 details, but I can answer that question.  23 BY MR. HEGARTY:  24 Q. Okay.</p>
<p style="text-align: right;">Page 267</p> <p>1 significant and move beyond a very  2 localized area of the body that, yes,  3 other -- the blood system, for example,  4 or even the lymph system can carry and  5 take away and contribute to -- to a more  6 systemic response.  7 But I don't think the way  8 you're asking it is quite right.  9 BY MR. HEGARTY:  10 Q. If you would turn next to paragraph  11 65.  12 A. Yes.  13 Q. Towards the end of that paragraph,  14 you add some references to the 2019 Fletcher  15 paper, correct?  16 A. That's correct.  17 Q. Have you ever done the type of  18 studies that are reported in the Fletcher paper  19 yourself?  20 A. I have done -- I have -- I have in  21 the laboratory when I was in academics worked in  22 the lab in with studies that had been looking at  23 redox enzymes in cells. Yes, I have done that,  24 but I -- this was not something that was the focus</p>	<p style="text-align: right;">Page 269</p> <p>1 A. And that is the issue of the fact  2 that just because a cell is immortalized doesn't  3 mean it is, quote-unquote, abnormal. It just  4 means that it's a process used in order to be able  5 to make -- put those cells in a state where they  6 will reproduce in culture.  7 So the idea is you have to  8 immortalize the cells in order to keep the cell  9 culture going and be able to do the experiment.  10 It is not -- it is not that the cell  11 is some kind of an abnormal cell that you don't  12 expect it to respond like normal cells would.  13 That's where I disagree with you.  14 I think that you do this as a tool,  15 but it's -- but it does not mean that the findings  16 are not relevant to normal physiology.  17 Q. Do you agree that to make the cells  18 immortalized, they are injected with a type of  19 virus?  20 A. This one is, yes. There's other  21 ways to do that, too. You can actually use  22 different kinds of external cell mediators to do  23 it as well.  24 Q. So is it your opinion that the</p>

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<p style="text-align: right;">Page 270</p> <p>1 process of making the cells that Dr. Saed used in 2 his study immortalized did not make them abnormal 3 or precancerous? 4 MS. PARFITT: Objection. 5 Form. 6 THE WITNESS: I don't think I 7 formed that opinion and I don't believe 8 that -- I would say you should ask him 9 about his studies. I believe he's 10 involved in the -- in the MDL. 11 I would just say to you what I 12 already did, which is, as a toxicologist, 13 this data is relevant to my assessment 14 for the reasons that, hopefully, you 15 understand based on the testimony I've 16 given about this kind of data in the 17 past. 18 BY MR. HEGARTY: 19 Q. And with regard to what Fletcher 20 reported as it relates to key redox enzymes, key 21 redox enzymes are not the same thing as reactive 22 oxygen species, correct? 23 A. No, they're not. The redox enzyme 24 forms the ROS.</p>	<p style="text-align: right;">Page 272</p> <p>1 A. I don't think that's on my list of 2 things I've seen. I don't know. If it's on my 3 list, I have. 4 Q. Would you look at your list to see 5 if you read Dr. Saed's deposition testimony? 6 A. Do you remember what the number of 7 that one is? I'm sorry. 8 Q. It's at the top. 9 A. Was that -- 10 Q. Well, it would be in your report. 11 A. Oh, it is Exhibit C to my report. 12 Q. Exhibit C in your report? 13 A. Yes. So let me look real quick. 14 Sorry. You have a better memory than I do today. 15 (Reviews document.) 16 I don't see it in my list, no. 17 Q. And you don't have a memory here 18 today of seeing it? 19 A. No, I do not. 20 Q. If you turn next to paragraph 75 in 21 your report, and tell me when you're there. 22 A. Mr. Hegarty, I just realized, I 23 looked at the wrong appendix here. 24 Q. Okay.</p>
<p style="text-align: right;">Page 271</p> <p>1 Q. And ROS are such things superoxide, 2 hydrogen peroxide, hydroxyl radicals, hydroxyl 3 ions, nitric oxide, correct? 4 A. Yes, that's correct. 5 Q. And with regard to reactive oxygen 6 species, the human body generates those every day, 7 right? 8 MS. PARFITT: Objection. 9 Form. 10 THE WITNESS: They can 11 generate those every day, but it's very 12 important to understand that they are 13 linked to inflammatory mechanisms. So it 14 can lead to an abnormal physiology 15 depending on what happens with the 16 process. 17 BY MR. HEGARTY: 18 Q. Just exercising, though, increases 19 reactive oxygen species in the body, correct? 20 A. Yes, and when you stop, it doesn't 21 occur anymore. The difference is talc is there 22 all the time. 23 Q. Have you read Dr. Saed's testimony 24 with regard to his study?</p>	<p style="text-align: right;">Page 273</p> <p>1 A. I actually looked at Appendix C. 2 You want me to look at this? I realized that's my 3 original report. 4 Q. Yes. Please look at your report -- 5 A. Okay. 6 Q. -- where you would list the 7 deposition testimony you have read. 8 A. Yeah. I'm sorry. 9 Q. I want to make sure that you are 10 accurate about it. 11 A. I just realized that. 12 No, I don't see it. 13 Q. Before we look at paragraph 75, 14 prior in the deposition you were looking for a 15 reference in your report to the 2021 risk 16 assessment that you thought might pertain to 17 fibrous talc. 18 Were you able to find that 19 reference? 20 A. So the reference that I remembered 21 was dealing to -- was dealing with what they 22 stated that they -- what they said they assumed, 23 and they assumed that it was talc that did not 24 have asbestiform fibers in their -- in their</p>

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<p style="text-align: right;">Page 274</p> <p>1 assessment. So that means that they would not  2 have assumed it had fibrous talc in their risk  3 assessment, which is important because that means  4 it's an assessment, like IARC, in terms of -- of  5 focusing on the toxicity of talc, not just one  6 constituent.  7 Q. Would you turn again to paragraph  8 75.  9 A. I'm there.  10 Q. You added in that paragraph a  11 reference to the Langseth paper 2008.  12 Do you see that?  13 A. Yeah. This is the same list that I  14 had before. Remember I told you -- I thought we  15 talked about this. I told you Wu was added for  16 that reason.  17 Q. Why did you add Langseth to this  18 part of your report?  19 A. Because it's one that they didn't  20 have access to, that's all, and I'm telling you  21 that they didn't have access to it.  22 MR. HEGARTY: And with regard  23 to the Langseth paper, I'm going to mark  24 as Exhibit 27.</p>	<p style="text-align: right;">Page 276</p> <p>1 under that heading that says --  2 MS. PARFITT: I'm just going  3 to object to the extent this article was  4 examined. It was one that existed well  5 before her 2018 deposition. So...  6 MR. HEGARTY: Do you believe  7 that it was in her report before the 2006  8 -- 2021 amended report?  9 MS. PARFITT: I thought it was  10 in her 2018 report. I would almost --  11 MR. HEGARTY: Can we go off  12 the record for just a second?  13 (Recess: 2:00 p.m. -  14 2:02 p.m.)  15 MR. HEGARTY: We can go back  16 on the record.  17 I believe that's all that I  18 have given our time limitations and  19 obviously subject to the couple of areas  20 that we perhaps might want to follow up  21 on, whether they were covered or not.  22 MS. PARFITT: That concludes  23 in Plaintiff's mind the entire  24 deposition, and thank you very much, Dr.</p>
<p style="text-align: right;">Page 275</p> <p>1 MS. PARFITT: Mark, I don't  2 want to interrupt you, but I think we're  3 about at four hours.  4 MR. HEGARTY: Yeah, I have --  5 I have like two minutes, three minutes  6 left. So I agree we're almost.  7 MS. PARFITT: Okay.  8 MR. HEGARTY: I'm going to  9 mark as Exhibit 27 the Langseth paper.  10 MS. PARFITT: All right.  11 (Document marked for  12 identification as Plunkett Exhibit 27.)  13 BY MR. HEGARTY:  14 Q. And if you turn over to the second  15 page under Proposal: To Research Community? Do  16 you see that section?  17 A. Yes, I have it.  18 Q. And before we get there, are you  19 aware that three of these authors were part of the  20 epidemiology working group for IARC --  21 A. Yes.  22 Q. -- 2006 review?  23 A. Yes. It says at the back here.  24 Q. Do you agree with the statement</p>	<p style="text-align: right;">Page 277</p> <p>1 Plunkett. I have no further questions.  2 Thank you, Mark.  3 MR. HEGARTY: Thank you.  4  5 (Time noted: 2:02 p.m.)  6  7 * * *  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24</p>

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<p style="text-align: right;">Page 278</p> <p>1 ERRATA SHEET</p> <p>2</p> <p>3 Page No. _____ Line No. _____ Change to: _____</p> <p>4 _____</p> <p>5 Page No. _____ Line No. _____ Change to: _____</p> <p>6 _____</p> <p>7 Page No. _____ Line No. _____ Change to: _____</p> <p>8 _____</p> <p>9 Page No. _____ Line No. _____ Change to: _____</p> <p>10 _____</p> <p>11 Page No. _____ Line No. _____ Change to: _____</p> <p>12 _____</p> <p>13 Page No. _____ Line No. _____ Change to: _____</p> <p>14 _____</p> <p>15 Page No. _____ Line No. _____ Change to: _____</p> <p>16 _____</p> <p>17 Page No. _____ Line No. _____ Change to: _____</p> <p>18 _____</p> <p>19 Page No. _____ Line No. _____ Change to: _____</p> <p>20 _____</p> <p>21 Page No. _____ Line No. _____ Change to: _____</p> <p>22 _____</p> <p>23 Page No. _____ Line No. _____ Change to: _____</p> <p>24 _____</p>	<p style="text-align: right;">Page 280</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2 DISTRICT OF COLUMBIA )</p> <p>3 I, DENISE DOBNER VICKERY, CRR/RMR and</p> <p>4 Notary Public, hereby certify the witness was by</p> <p>5 me first duly sworn to testify to the truth; that</p> <p>6 the said deposition was recorded stenographically</p> <p>7 by me and thereafter reduced to printing under my</p> <p>8 direction; and that said deposition is a true</p> <p>9 record of the testimony given by said witness.</p> <p>10 I certify the inspection, reading and</p> <p>11 signing of said deposition were NOT waived by</p> <p>12 counsel for the respective parties and by the</p> <p>13 witness; and that I am not a relative or employee</p> <p>14 of any of the parties, or a relative or employee</p> <p>15 of either counsel, and I am in no way interested</p> <p>16 directly or indirectly in this action.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 Denise Dobner Vickery, CRR/RMR</p> <p>22 Notary Public in and for the</p> <p>23 District of Columbia</p> <p>24 My Commission expires: February 28, 2023</p>
<p style="text-align: right;">Page 279</p> <p>1 DECLARATION UNDER PENALTY OF PERJURY</p> <p>2</p> <p>3</p> <p>4 I declare under penalty of</p> <p>5 perjury that I have read the entire transcript of</p> <p>6 my Deposition taken in the captioned matter</p> <p>7 or the same has been read to me, and</p> <p>8 the same is true and accurate, save and</p> <p>9 except for changes and/or corrections, if</p> <p>10 any, as indicated by me on the DEPOSITION</p> <p>11 ERRATA SHEET hereof, with the understanding</p> <p>12 that I offer these changes as if still under</p> <p>13 oath.</p> <p>14</p> <p>15 Signed on the _____ day of</p> <p>16 _____, 2021.</p> <p>17</p> <p>18 _____</p> <p>19 LAURA M. PLUNKETT, PHD, DABT</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	



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